

TITLE X.

BUSINESS LICENSES AND REGULATIONS

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CHAPTER 10-01

ALCOHOLIC BEVERAGES

(Source: Ord. 621, Sec. 1 [2002]; Ord 862, Sec. 1 [2010])

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10-0101. DEFINITIONS. In this chapter, unless the context or subject matter otherwise requires:

- 1. "Agent": A person or entity acting on behalf of the license holder or an employee of the license holder.
- 2. "Alcoholic Beverages": Any liquid intended for drinking by human beings which contains one-half of one percent or more

of alcohol by volume. All alcoholic beverages shall be deemed intoxicating.

3. "Applicant": Person who completes the license application, may or may not be owner or licensee.
4. "Beer": Any malt beverage containing more than one-half of one percent of alcohol by volume.
5. "City": The City of West Fargo.
6. "Club" or "lodge": Any corporation or association organized for civic, fraternal, social, or business purposes, or for the promotion of sports. Said club or lodge shall have at least one hundred (100) members at the time of the license application and have been in existence for 20 years prior to the time of application for the license; if not it must be a local organization which is a subsidiary of and chartered by a national organization which has had a bona fide existence for more than 20 years shall be deemed to be a "lodge" or club. Alcoholic beverages may be sold or served only to members, associate members, and bona fide guests. "Bona fide guests" means any person accompanied by a member of the club or lodge or other person invited by a member of the club or lodge.
7. "Commission": The Board of City Commissioners of the City of West Fargo, North Dakota.
8. "Incompetent": Someone under a guardianship whom has been judged legally incompetent.
9. "Intoxicating Liquor" and "liquor": Any alcoholic beverage, except beer.
10. "Licensed Premises": The bar area, dining rooms, meeting rooms and all other areas or places alcoholic beverages are regularly or occasionally sold, served, dispensed, or consumed by patrons. In the alternative, any person applying for a license under the provision of this article must describe, depict or otherwise identify in this application in the form of a floor plan the various areas or spaces which shall constitute the licensed premises. The Commission, at its discretion, requires any applicant to so describe, depict or otherwise identify the licensed premises as a condition for the issuance of a license under the provisions of this article.

11. "Licensee": means the person or entity to whom a license has been issued under the provisions of this chapter.
12. "Obviously intoxicated": shall mean that the person's obvious intoxication be reasonably discernible or evident to a person of ordinary experience." Such indicators of intoxication may include, but are not limited to a combination of any of the following types of conditions:
 - A. Problems with balance, inability to maintain balance, i.e., stumbling, staggering gait, bumping into furniture while walking, falling against bar or off stool, resting head on bar;
 - B. Ineffective muscular coordination, i.e., spilling and/or knocking over drinks, unable to pick up change and the like;
 - C. Disorientation and mental confusion as to locations, date, names and the like;
 - D. Strong smell of alcohol;
 - E. Unusual or distorted speech, i.e., slurred, thick tongue, uncontrollable voice pitch, muttering, and the like;
 - F. Bloodshot and/or glassy eyes, flushed face, and the like;
 - G. Condition of clothes and hair, i.e., soiled clothing, urinated upon clothing and the like;
 - H. Unusual behavior, i.e., vomiting, profanity, hiccups, fighting, loud, boisterous, obnoxious behavior, sleeping or unconscious.
13. "Off Sale": The sale of alcoholic beverages in original packages for the consumption off or away from the premises where sold. This provision shall not prohibit the licensee from dispensing and the customer from consuming a free sample as defined by the laws of this state.
14. "On Sale": The sale of alcoholic beverages for consumption only on the licensed premises where sold.
15. "Owner": means the individual or entity that holds title to an establishment.

16. "Package" and "Original Package": Any container or receptacle holding alcoholic beverages, when such container or receptacle is corked or sealed by the manufacturer thereof, and when the cork or seal has not been removed or broken prior to the sale of such package to the purchaser.
17. "Person(s)": Any individual, firm, corporation, association, club, partnership, society, or any other organization.
18. "Probationary Period": A period of 12 months for a violation which is not within any period of probation already established by a violation of any of this section, which 12 months shall be defined as commencing on the date of the said first offense and shall extend for 12 consecutive months thereafter. If any subsequent offenses occur within the said 12-month period, the probationary period for any such subsequent offense shall extend for either the same 12 consecutive months from the date of the first offense, as described above, or for a period of 6 months from the date of the subsequent offense, whichever period would expire later. For purposes of this section, an offense is deemed to have occurred when the offense is committed. A licensee, within 10 days of the alleged offense, may appeal in writing to the City Commission requesting a hearing on the issue of whether or not a violation in fact occurred.
19. "Recreational Establishment": Any establishment whose building contains games such as billiards, pool, video games, pinball machines or similar devices that take up at least 25% of the square footage of the building. Bowling alleys are not a recreational establishment.
20. "Resident Manager": Person who operates the establishment on a day-to-day basis. This person must be a legal resident of the United States, at least twenty-one (21) years of age and reside within 75 miles of the city limits of West Fargo.
21. "Sale" and "sell": All manners or means of furnishing of alcoholic beverages, including the selling, exchange, disposition of, and keeping for sale of such alcoholic beverages.

22. Sample: a sample shall mean no more than 1 fluid ounce.
23. "Wholesaler": Any person engaged in the sale and distribution of alcoholic beverages at wholesale to persons holding a retail license for the sale and distribution of alcoholic beverages within the State of North Dakota or in interstate commerce.
24. "Wine": The alcoholic beverage obtained by a fermentation of agricultural products containing natural or added sugar, or such beverage fortified with brandy and containing not more than 24% alcohol by volume.

10-0102. LICENSE REQUIRED. No person, as defined in Section 10-0101 of this chapter, shall sell, exchange, or keep for sale any alcoholic beverages, as defined in Section 10-0101 of this chapter, without first having obtained a license pursuant to the provisions of this chapter and posting said license in a conspicuous place or premises. This section does not apply to a nonprofit organization that sells an alcoholic beverage as part of a fundraising activity. As used in this subsection, fundraising activity includes an auction, raffle, or other prize contest for which consideration is given. If the alcoholic beverage is sold as part of a fundraising event, the sale may not be for consumption at that event.

Source: Ord. 906, Sec. 1 (2011)

10-0103. LICENSES - REGULATIONS AS TO CLASSES - FEES.

1. Licenses authorizing the sale of alcoholic beverages within the City of West Fargo shall be divided into the following classes:
 - (a) Wholesaler's License. The annual license fee for wholesaler's license shall be One Thousand Dollars (\$1,000) per year, payable at the time of application for the license.
 - (b) Retail On and Off Premises Liquor License. The annual license fee for retail liquor on and off sale premises license shall be One Thousand Five Hundred Dollars (\$1,500) per year, payable at the time of the application.
 - (c) Retail On Premises Liquor License. The annual license fee for retail liquor on-sale premises license shall be One Thousand One Hundred Dollars (\$1,100), payable at the time of application.
 - (d) Retail Off Premises Liquor License. The annual license fee for retail liquor off sale premises license shall be One Thousand One Hundred Dollars

(\$1,100) per year, payable at the time of application.

- (e) Retail Club or Lodge On Sale Liquor License. The annual license fee for a retail club or lodge on sale liquor license shall be One Thousand Dollars (\$1,000) payable at the time of application.
- (f) Retail On and Off Premises Beer License. The annual license fee for a retail on and off premises beer license shall be Four Hundred Dollars (\$400), payable at the time of the application for the license.
- (g) Retail On Premises Beer License. The annual license fee for a retail on premises beer license shall be Four Hundred Dollars (\$400), payable at the time of the application for the license.
- (h) Retail Off Premises Beer License. The annual license fee for a retail off premises beer license shall be Four Hundred Dollars (\$400), payable at the time of the application for the license.
- (i) Retail Club or Lodge On Sale Beer License. The annual license fee for a retail club or lodge on sale beer license shall be One Hundred Fifty Dollars (\$150) per year, payable at the time of the application for the license.
- (j) Retail On-Premises Wine and Beer License. The annual license fee for a retail on-premise wine and beer license shall be Six Hundred Dollars (\$600), payable at the time of application for the license.

2. The licenses for the sale of alcoholic beverages set out above shall be in effect for a period of one year commencing July 1 of each year and terminating June 30 of the following year. If an application is made for a license during the licensing year, the license that is granted shall only be for the unexpired portion of such year ending June 30, at which time an application for renewal of the license must be made. The license fee for the partial year shall be prorated so that it equals one-twelfth (1/12th) of the licensing fee set out above times the number of months the license will be in effect. The entire license fee for the portion of the year shall be paid at the time of the issuance of the license. Provided, that if a transfer of a license will occur within 60 days after July 1, the current license holder and intended transferee can file a joint application for

a new license along with the required annual fee. The current licensee will receive a new license effective July 1, and upon written confirmation within 60 days of July 1, the Auditor shall issue a new license to the transferee without the need of further license fees.

3. If an application is for a new liquor license, or a transfer of a license, not a renewal of an existing license, in addition to the annual license fee set forth above, an initial application fee, payable to the City of West Fargo, must accompany the license application fee. The amount of the initial application fee shall be twenty-five percent (25%) of the annual license fee set out above for the license or licenses for which application is being made. Such initial application fee shall not be refunded, whether or not a license is granted by the City, and the initial application fee shall not be prorated, even if the initial application is for a portion of a year. Provided, that if a transfer of a license is to a person who already holds a beer or liquor license in West Fargo, or to an entity whose owner, shareholders, or partners have all had background checks by the West Fargo Police Department, the Auditor may waive the initial application fee.
4. Any license holder which premises includes a restaurant and which allows persons under twenty-one (21) to enter the premises with a request for renewal of a license shall be required to file with the City a statement by a certified public accountant indicating that he or she has examined and tested the books and records of the licensee and that the licensee's gross revenue from the sale of food is equal to or exceeds the gross revenue from the sale of alcoholic beverages in the dining area. At the option of the licensee, in lieu of a certified public accountants statement, licensee may request from the State Tax Commissioner's Office and furnish to the City Auditor's office a certified copy of licensee's sales tax returns for the most recent 12-month period prior to renewal. Notwithstanding furnishing of such sales tax returns, the City may, in its discretion, require licensee to comply with the requirement that a statement by a certified public accountant be furnished as aforesaid. Any costs incurred in connection with the requirements of this section shall be the sole responsibility of the licensee. The City may also, in its discretion, conduct an independent investigation of the sales ratio of food to alcoholic beverages and for such purpose, the licensee agrees to allow inspection of its

business records. In the event that the results of an independent investigation by the City results in a determination that sale of food does not equal or exceed the sale of beverages in the dining area, the licensee shall be required to pay all costs of such investigation, and the licensee will have to suspend persons under the age of twenty-one (21) from entering the establishment.

10-0104. LICENSE-QUALIFICATIONS. No retail license for the sale of alcoholic beverages shall be issued to any applicant unless the following requirements are met:

1. State Requirements. The requirements of Sections 5-02-02(1) and (2) are met.
2. Residence Requirement.
 - (a) If applicant is an individual, the applicant must reside within 75 miles of the city limits of West Fargo.
 - (b) If the applicant is any form of a partnership, a partner or partners owning at least 50 percent of the partnership must reside within 75 miles of the city limits of the City of West Fargo.
 - (c) If applicant is any form of a corporation, it must have a Resident Manager who is designated in the license application as the registered agent of the corporation who must reside within 75 miles of the city limits of the City of West Fargo.

If applicant, or Resident Manager, does not have a legal and bona fide residence as required above at the time at which the application is submitted, a license may be granted to such an applicant upon the condition that the applicant satisfies the above residence requirement within three (3) months after the approval of the license. Failure to provide this documentation within the above time line will result in the automatic suspension of the license.

3. Age. The applicant, and all partners, and all officers, directors, shareholders holding more than five percent of the outstanding stock of the corporation, and Resident Manager shall be at least twenty-one (21) years of age.
4. Fitness. The applicant, its Resident Manager, partners and/or shareholders, must be deemed by the Board of City Commissioners to be persons of good moral character.

Good moral character shall be determined by the Board of City Commissioners. In making that evaluation, the City Commission will consider, among other factors, whether the person or entity has been convicted of any of the following offenses within the previous five years:

- a) any felony;
 - b) any offense involving the manufacture, sale, distribution or possession for sale or distribution of alcoholic beverages;
 - c) any offense involving the sale of drugs or felony possession of drugs;
 - d) prostitution;
 - e) obscenity;
 - f) any other offense determined by the Board of City Commissioners to have a direct bearing on the applicant's or manager's ability to serve the public as an alcoholic beverage retailer.
5. Owner of Business. No license shall be issued to any person as the representative or agent of another, and the license will be issued only to the owner or owners of the business being conducted at the location sought to be licensed.
6. Taxes. No license shall be issued, transferred or renewed for any location in which the real property taxes are delinquent and unpaid.
7. Server Training Required: All licenses issued under the provisions of this Chapter of the West Fargo ordinances are required to send all managers and employees involved in the sales of alcoholic beverages at said licensed establishment to a server training course, as approved by the West Fargo Police Department.
- a. Persons successfully completing the approved class will receive a "server training certificate card," which shall remain with said individual wherever employed. the "server training certificate card" is not required to be in said person's possession during hours of employment, at a licensed establishment, provided the card can be produced within 24 hours.

- b. The "server training certificate card" must be renewed every three years.
- c. All new establishments are required, within 90 days of opening, to provide the West Fargo Police Department with a roster of managers and employees depicting first name, last name, date of birth, date of hire, and server training card expiration date.
- d. Recently hired managers and employees not having in their possession a current "server training certificate card," must within 90 days of the employment start date, successfully complete an approved server training class.
- e. All licensees are required to submit along with the license renewal applications, a complete roster of managers and employees involved in serving alcoholic beverages to the West Fargo Police Department. Said roster is to include the expiration date of the respective individual's "server training certificate card."

Failure to comply with the above-referenced requirements may result in the delay of the liquor license renewal and/or suspension of said license until date of compliance.

A wholesaler's license may be issued to any person eligible there for under the terms of the laws of the State of North Dakota, or any amendments thereto, who shall be engaged in the business of selling alcoholic beverages to licensed retail dealers or in interstate commerce only, provided, that no license shall be granted to any wholesaler who shall, directly or indirectly own or control, or have any financial interest in the ownership, control or operation of a licensed retail on sale and/or off sale business.

10-0105. RESERVED FOR FUTURE USE.

10-0106. LIABILITY INSURANCE REQUIRED OF LICENSEES. Every person licensed under the authority of this chapter, other than wholesalers, shall provide the City Auditor, not later than thirty (30) days after a license is issued, proof of liability and liquor liability insurance (Dram Shop). Such insurance shall provide coverage for at least \$50,000 per person and \$100,000 per person for liability insurance and liquor liability insurance, respectively. The adequacy of any such insurance shall be determined by the governing body of the City.

10-0107. LICENSE APPLICATION. Any person desiring to obtain the issuance, transfer or renewal of a license for the sale of alcoholic beverages shall make and file an application for such license with the Board of City Commissioners, through the City Auditor. In the case of a renewal of the license, such application must be submitted at least forty five (45) days prior to the expiration date of the license. The application shall be made on a form made available through the office of the City Auditor. In addition to the information supplied on the application form, the Commission, the City Auditor, Police Chief or his designee, may require such other information as they deem necessary in determining whether or not a license should be issued to the applicant. If a license is granted, the licensee must inform the City Auditor in writing within thirty (30) days of any changes in the facts supplied to the City in the application previously submitted.

10-0108. INVESTIGATION OF APPLICANT. The Chief of Police, or such other officer as may be designated by the Chief of Police, shall investigate the facts stated in the application and the character, reputation, and fitness of the applicant, and shall report on said matters to the Board of City Commissioners.

10-0109. ISSUANCE, RENEWAL AND TRANSFER OF LICENSES.

1. No license shall be issued, renewed or transferred without the approval of the West Fargo City Commission. A change in the location of the licensed premises shall be deemed to be a transfer.
2. If the application is for a new license or a relocation of an existing license, then notice that the applicant has applied for a license to sell alcoholic beverages at a place designated in the application, and that the application will be acted upon by the City Commission on a certain day and time, shall be published in a newspaper in the City at least ten (10) days before the date set for the hearing on the application. Such notice shall be signed by the City Auditor and the expense of its publication, in addition to the license fee, shall be paid by the applicant to the City Auditor before publication.
3. No new license, or a relocation of a license to a new location, shall be issued unless and until the applicant has proven, to the satisfaction of the governing body, that the following conditions have been met. These conditions shall not apply to license renewals:

- a. That the premise to be licensed has a minimum of 2,500 sq. ft. of space available and devoted to the business for which the premises is licensed. The measurement of 2,500 sq. ft. will be based on the exterior measurements of the building in which the premise is located and shall not include any carports, parking areas, drive-ins, or any similar exterior features to the premise. If the building is not a separate building, but has a common wall with one or more other businesses, the measurement will be from the center of any common wall.
- b. That sufficient, well-lighted off-street parking will be available to the patrons of the establishment of the applicant.
- c. That the establishment in question will be a definite asset to the City.
- d. That the licensed premise has a separate entrance or entrances from any other business and have no interior connection by which customers may move directly from another business to the licensed premises. This restriction will not apply to eating establishments, motels or hotels that apply for a liquor license as part of their operation, or off sale licenses.

Additional factors to be considered in the granting of a new license:

- a. The proximity of other businesses licensed to sell alcoholic beverages.
- b. Protests of neighboring property owners or occupants.
- c. Interference with neighboring properties.
- d. Suitability of premises for sale of alcoholic beverages.
- e. Recommendations and reports of appropriate city officials, including the Chief of Police, Chief of the Fire Department, Building Inspector, and Health Officer and any of their authorized representatives.
- f. Zoning regulations.

- g. Proximity of schools, churches, funeral homes, public buildings or buildings used by and for minors.

Source: Ord. 894, Sec. 1 (2011)

10-0111. LICENSE FEES -DISPOSITION OF FEES. All license fees collected by the City Auditor shall be credited to the general fund of the City.

10-0112. POSTING OF LICENSES. Licenses issued to licensees shall be posted in a conspicuous place in that portion of the premises for which the license has been issued.

10-0113. LICENSES - TERMINATION, SUSPENSION AND REVOCATION. All licenses issued under the provisions of this chapter, unless otherwise specifically provided, shall terminate on June 30 following the date of issuance; provided however, that any license issued under the provisions of this chapter may, under certain circumstances, terminate automatically, or be terminated, suspended or revoked by the City Commission.

1. Any license issued under the provisions of this chapter shall automatically terminate:
 - (a) Upon the death of the licensee unless, upon application to the Commission by the personal representative of the decedent, the Commission shall consent to the carrying on of such business by the personal representative. Said application must be submitted to the Commission within thirty (30) days of the licensee's death.
 - (b) When the licensee, for any reason, ceases business at the licensed premises. Business shall be deemed to have ceased when no sale of alcoholic beverages occurs on the licensed premises for a period of at least thirty (30) consecutive business days; provided, however, upon written request of the licensee, the Commission at its discretion may grant a period of up to sixty (60) additional days before business shall be deemed to have ceased.
 - (c) When any license or permit of the licensee from the United States Government or the State of North Dakota to sell alcoholic beverages at the licensed premises has terminated or been suspended or revoked.
2. The Commission may, in its discretion, suspend or revoke for cause any license issued under the provisions of this

chapter. The grounds for suspension or revocation shall include the following (but is not limited too):

- (a) An individual licensee, one of the partners in a partnership licensee, or one of the officers in a corporation licensee, or any individual designated in the application as Resident Manager of the licensed business is convicted of violating any of the provisions of this chapter.
 - (b) An individual licensee, one of the partners in a partnership licensee, or one of the officers, directors or shareholders in a corporation licensee, or any individual designated in the application as Resident Manager of the licensed business is convicted of any state or federal felony.
 - (c) The business of the licensee, at the location licensed, is conducted in such a manner as to be in violation of the health, sanitary or other regulations or ordinances of the City of West Fargo.
 - (d) The licensee, having been given a conditional license pursuant to Section 10-0104 because of failure to meet the residence requirements of this chapter, fails to have the required residency within the three (3) month period.
 - (e) If the licensee, or Resident Manager ceases to meet the residence requirements of section 10.0104.
 - (f) The licensee has made any false statement in his application for a license.
 - (g) If the licensee fails to notify the City Auditor in writing within thirty (30) days of any change in the facts supplied to the City in the application for its license.
 - (h) If the establishment does not pass its fire safety inspection and fails to correct the violations within thirty (30) days of said inspection.
3. The grounds enumerated in subsection 2 of this section shall not be deemed to be exclusive and any license issued under the provisions of this chapter may be suspended or revoked by the Commission for any other

reason deemed by the Commission to be sufficient in order to promote the public health, safety, morals and general welfare of the people of the City of West Fargo. When any license is suspended or revoked by the Commission pursuant to the provisions of this section, or when the licensee voluntarily ceases business, no portion of the license fee previously paid shall be returned to the licensee or to anyone claiming under or through him.

4. No license issued under the provisions of this chapter shall be suspended or revoked for cause by the Commission without a public hearing. In the event that the Commission intends to consider the suspension or revocation of any license for cause, the City Auditor shall notify the licensee in writing and inform the licensee of the reason for the hearing, and specify the time and place of the hearing. The notice, and any affidavits filed in support of the suspension or revocation shall be served in the same manner as provided by law with the service of the summons in the civil action, or by registered mail. No suspension or revocation hearing shall be held before the expiration of ten (10) days (or longer period if required by State law) after the date of the mailing of the notice by registered mail.

If, upon such hearing, it appears to the Commission that sufficient cause exists for the suspension or revocation of the license issued pursuant to the provisions of this chapter, the Commission shall make its order for immediate suspension or revocation of the license.

5. ADMINISTRATIVE FINE, SUSPENSION, OR REVOCATION REGARDING SALE OF ALCOHOLIC BEVERAGES TO MINORS. If the violation of the liquor ordinances relates to the sale of alcoholic beverages to minors by a licensee or licensee's employees, the following administrative suspensions, or revocations shall be imposed:
 - (a) The first such violation shall subject licensee to a written warning and a 12 month Probationary Period.
 - (b) The second violation within the Probationary Period shall subject licensee to a 3-day suspension of the license.

- (c) The third violation within the Probationary Period shall subject licensee to a 10-day suspension of the license.
 - (d) Subsequent violations within the Probationary Period shall subject licensee to a 30-day license suspension.
 - (e) If any sale of liquor products occurs on licensee's premises during a period of suspension, the license shall be suspended for the full probationary period.
 - (f) For purposes of establishing the number of offenses committed by a licensee, the licensee is deemed to have committed only one offense during any 24-hour day.
6. ADMINISTRATIVE FINE, SUSPENSION OR REVOCATION REGARDING SALE OF ALCOHOLIC BEVERAGES TO A MINOR IF LICENSEE HAS CERTIFIED TO AN APPROVED TRAINING PROGRAM. If the violation relates to the sale of alcoholic beverages to minors by a licensee, if licensee has certified to an approved training program, or licensee's employees, the following administrative suspensions or revocations shall be imposed:
- (a) The first violation shall subject licensee to a written warning and a 12 month Probationary Period.
 - (b) The second violation within the Probationary Period shall subject licensee to a \$250 administrative fine.
 - (c) The third violation within the Probationary Period shall subject licensee to a \$500 administrative fine.
 - (d) The fourth violation within the probationary period shall subject licensee to a three-day suspension of the license.
 - (e) The fifth violation within the probationary period shall subject licensee to a ten-day suspension of the license.
 - (f) Subsequent violations within the Probationary Period shall subject licensee to a 30-day license suspension.

- (g) If any sale of liquor products occurs on licensee's premises during a period of suspension, the license shall be suspended for the full Probationary Period.
- (h) For purposes of establishing the number of offenses committed by a licensee, the licensee is deemed to have committed only one offense during any 24-hour day.

7. ADMINISTRATIVE HEARING/WAIVER. Upon receipt of information indicating that a license violation covered by Section 1013.5 or 1013.6 has occurred, the Police Chief or his designee shall send a license violation notice to licensee by certified mail. The license violation notice shall indicate the nature of the violation and whether such violation will result in an administrative fine, license suspension, or license revocation.

If the proposed disposition includes a license suspension, revocation, or fine, the notice shall also indicate that licensee has the option of requesting a hearing before the City Commission prior to the license suspension, revocation, or imposition of fine, or waiving such hearing and accepting the disposition described in the license violation notice. The licensee shall file a written request for a hearing within ten (10) days of the date specified in the license violation notice, or licensee shall be deemed to have waived its right to a hearing. Upon receipt of a hearing request, the Police Chief or his designee shall schedule a hearing before the City Commission at the earliest opportunity and shall send a hearing notice to licensee by certified mail.

8. CLERK PENALTIES. Any employee of a license holder who is in violation of selling alcoholic beverages to a minor shall be subject to an administrative fine of Fifty and no/100 Dollars (\$50.00).

10-0114. LOCATION OF LICENSED ALCOHOLIC BEVERAGE ESTABLISHMENTS. No alcoholic beverage license shall be issued for any building, room or place within one hundred fifty (150) feet of any church, public or parochial school grounds, or synagogue. The distance to be measured in a straight line from the building in which said school or church is conducted to the principal public entrance of the place in which the liquor is dispensed, except in case of a church or synagogue where the governing body thereof

gives the licensee written permission to locate within the said prescribed limits, and such written permission is approved and filed with the Board of City Commissioners. The foregoing shall not apply to lodges and clubs as defined herein. No license to sell liquor under the provisions of this chapter shall entitle the holder thereof to carry on such business at more than one location under any one license, and each license shall contain the legal description of the place where the holder thereof operates such business. No license to sell alcoholic beverages shall be issued to any applicant unless any part of the lot on which the premise is located is within three hundred (300) feet of the right-of-way of Main Street, Sheyenne Street (Cass County Highway No. 17), 9th Street East and Northeast, 13th Avenue East and West, 12th Avenue Northeast and Northwest, 32nd Avenue East and West, 52nd Avenue East and West, Beaton Drive, 19th Avenue East, Veteran's Boulevard, or Blue Stem Drive between 31st and 32nd Avenues East, and, if a major portion of the lot does not directly abut one of the designated streets, that it has direct (but not necessarily exclusive) access to one of the designated streets.

Source: Ord. 952, Sec. 1 (2013)

10-0115. HOURS OF SALE - PROHIBITION OF SALES ON HOLIDAYS.

1. A person may not dispense or permit the consumption of alcoholic beverages on a licensed premises between two a.m. and twelve noon on Sundays, between the hours of two a.m. and eight a.m. on all other days of the week, or on Christmas Day or after six p.m. on Christmas Eve. In addition, a person may not provide off-sale after two a.m. on Thanksgiving Day. A person that violates this section is guilty of a class A misdemeanor.
2. Nothing in this section shall be construed as permitting the sale or dispensing of intoxicating liquor when such sales are prohibited by state or federal law.

10-0116. RESTRICTIONS ON SALE, SERVICE OR DISPENSING OF ALCOHOLIC BEVERAGES.

1. No licensee, his agent or employee, shall sell, serve or dispense any alcoholic beverage to a person under twenty-one (21) years of age; no licensee, his agent, or employee, shall permit any person under 21 years of age to be furnished with any alcoholic beverage upon the licensed premises.
2. No licensee, his agent or employee shall sell, serve or dispense, nor permit to be furnished with any alcoholic beverage upon the licensed premises, any habitual drunkard, an obviously intoxicated person, a person under guardianship after written notice of such guardianship by

the legal guardian and during the continuance of such guardianship.

3. No person under 21 years of age shall be permitted to enter any room of a licensed premises in which alcoholic beverages are sold, served or dispensed. Nor shall anyone under the age of 21 years be employed in any room or rooms on a licensed premises which alcoholic beverages are sold on-sale, except as provided in subsections 4, 5 and 6 of this section.
4. Any person under 21 years of age may enter and remain in a restaurant where alcoholic beverages are sold if the restaurant is separated from the room by a permanent partition/barrier that is at least 3 feet in height, in which alcoholic beverages are opened or mixed and if gross sales of food are at least equal to gross sales of alcoholic beverages which are consumed in the dining area, or if the person is employed by the restaurant as a food waiter, food waitress, busboy or busgirl, and is under the supervision of someone 21 years of age or older, and does not engage in the sale, dispensing, delivery or consumption of alcoholic beverages; provided, that any person who is between 18 and 21 years of age may be employed by the restaurant to serve and collect money for alcoholic beverages, if the person is under the direct supervision of a person 21 or more years of age. A law enforcement officer, or person cooperating with and under the control of such law enforcement officer, under the age of 21 years may enter premises where alcoholic beverages are sold, dispensed, or consumed in the performance of an official duty. Any establishment where alcoholic beverages are sold may employ persons from 18 to 21 years of age to work in the capacity of musicians under the direct supervision of a person over 21 years of age. Any person under 21 years of age may remain in the area of an event where beer, wine, or sparkling wine is sold in accordance with the conditions of an event permit issued pursuant to Section 10-0125 hereof.
5. Any person under 21 years of age may enter and remain in a restaurant where alcoholic beverages are being sold when accompanied by a parent or legal guardian, and if the gross sales of food are equal to gross sales of alcoholic beverages in the dining area, whether or not the restaurant is separated from the room in which alcoholic beverages are opened or mixed. Provided a person under 21 may not sit or be served at a bar, but must be seated and served at a table or booth.

6. If a licensee owns or operates a Recreational Establishment which is open to persons under 21 years of age, the licensee shall designate, in its license application, an area to be used solely in its recreational capacity by persons under 21 years of age. No such licensee shall permit the sale, service, dispensing or consumption of alcoholic beverages in such designated area and no such licensee shall permit persons under 21 years of age to enter any area not so designated. The designated area must be separated from the rest of the establishment by a permanent partition/barrier which is at least three feet in height.
7. If a licensee owns or operates a bowling alley there must be a designated area where beverages are purchased, served and or mixed and persons under 21 may not enter that designated area of the premises. The designated area must be separated from the rest of the establishment by a permanent partition/barrier which is at least three feet in height. Alcoholic beverages purchased within the designated area may be consumed in the bowling alley area and concourse adjacent to the bowling alley.
8. No off-premise liquor or beer licensee shall permit the opening or consumption of alcoholic beverages upon the licensed premises; provided, however, the licensee may permit the sampling of alcoholic beverages upon the licensed premises without charge to the consumer.
8. Notwithstanding any other ordinance or state statute to the contrary, a person under the age of 21 cooperating with and under control of a law enforcement officer may enter a licensed premises for the purposes of a compliance check on whether the licensee is complying with the laws prohibiting the sale of alcoholic beverages to a minor.

10-0117. DELIVERY OF ALCOHOLIC BEVERAGES. No licensed retail alcoholic beverage dealer, the officers, employees or agents in the City of West Fargo shall deliver or shall cause to be delivered to any customer outside of the licensed premises, any alcohol or alcoholic beverages sold under the terms and provisions of this chapter.

10-0118. PURCHASE TO BE FROM LICENSED WHOLESALER. No licensee shall purchase, have, or possess any alcohol or alcoholic beverages as defined by the laws of the State of North Dakota unless licensee

has purchased the same from a wholesaler duly licensed pursuant to the provisions of the laws of the State of North Dakota.

10-0119. LICENSED PREMISES - REQUIREMENTS FOR.

1. Every on-sale retail premise licensed for the sale of alcoholic beverages must be equipped with adequate and sufficient lavatories and toilets separately maintained for men and women and kept in a clean and sanitary condition.
2. Every licensee of an off sale liquor license which has a drive-in window for service must provide sufficient lighting so as to remove any and all traffic hazards that might arise as a result of the drive-in window and provide for motor vehicle ingress and egress to and from said facility without in any way impeding, hampering, delaying or jeopardizing the safe flow of motor vehicle traffic.

10-0120. INSPECTION OF LICENSED PREMISES TO BE ALLOWED. The licensee accepts the license privileged upon the condition, which need not elsewhere be expressed, that the Board of City Commissioners, the City Auditor, the Fire Department Chief, the Chief of Police, any officer of the Health Department or authorized representatives of any of the aforementioned departments may, at any time, enter upon the premises licensed for the purpose of police inspection, or to determine whether the premises are being conducted in compliance with the ordinances of the City.

10-0121. CABARET LICENSE.

1. DEFINITIONS.

- (a) Entertainment - shall be defined for purposes of this Ordinance to mean all forms and types of performing or entertaining for patrons on licensed premises without regard as to whether such entertainment is provided by means of live performances or manually operated, electronic systems designed for stereophonic playback of prerecorded signals: provided, however, that entertainment shall not be deemed to include the use of any television, radio or coin operated music machine.
- (b) Live performances - shall be defined for the purpose of this Ordinance to mean any person who for consideration, monetary or otherwise, performs

in person on a licensed premise as a singer, musician, dancer, comedian, model, or any other type of entertainer.

2. No licensee under this Chapter shall permit entertainment for more than one day a week any given week without first having obtained a cabaret license as hereinafter provided.
3. The license fee for cabaret license shall be \$250.00 per year.
4. The license fee set forth in subsection 3 of this section shall be for a period of one year from July 1 to June 30 and shall be payable in advance at the time of the issuance of the license and thereafter, on or before June 10 of each subsequent year for renewal of said license.
5. The application for cabaret license shall be made by the licensee on forms provided by the City Auditor's office of the City of West Fargo. The granting of a cabaret license shall be subject to the approval of the commission and it may be suspended or revoked in conformance with procedures established under Section 10-0113.
6. No live performances are permitted on a licensed premises which contain any form of dancing. Such prohibition on dancing does not include the incidental movement or choreography of singers or musicians which are made in connection with their singing or playing of a musical instrument. This restriction applies to all licensed premises whether or not they have a cabaret license.
7. No live performances are permitted on a licensed premise which involve the removal of clothing, garments or any other costume. Such prohibition does not include the removal of headwear or footwear; or the incidental removal of a tie, suit coat, sport coat, jacket, sweater or similar outer garments. Incidental removal for purposes of this section shall mean the removal of a garment or article of clothing which is not a part of the act or performance. This restriction applies to all licensed premises whether or not they have a cabaret license.

8. No entertainment on a licensed premise shall contain:

- (a) The performance of acts, or simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;
- (b) The actual or simulated touching, caressing or fondling of the breasts, buttocks, anus or genitals;
- (c) The actual or simulated displaying of the pubic hair, anus, vulva or genitals; or the nipples of a female. This restriction applies to all licensed premises whether or not they have a cabaret license.

9. A licensee shall have the duty and responsibility to make available for inspection by a member of the West Fargo Police Department an identification card, such as a driver's license, containing a photograph and the age of all entertainers or performers on the licensed premises. The licensee shall not permit a person to make a live performance on the licensed premises if the licensee is not able to obtain the required identification from the performer.

10-0122. APPLICATION OF CHAPTER. This chapter shall apply to all territory within the corporate limits of the City and, as permitted by state law to such outlying contiguous territory without the corporate limits within which the City may exercise police jurisdiction, as defined by law.

10-0123. PENALTY. Any person, firm or corporation violating the terms of this chapter shall, upon conviction thereof, be punished by a fine not to exceed \$500.00 or imprisonment not to exceed 30 days, or by both such fine and imprisonment, at the discretion of the Court. Provisions of Section 1-0807 shall also apply. Such a penalty should be in addition to the authority of the City Commission to suspend or revoke a license pursuant to Section 10-0113.

10-0124. SEVERABILITY CLAUSE. If any section, subsection, sentence or clause of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of the ordinance.

10-0125. SPECIAL PERMITS FOR SALE OF ALCOHOLIC BEVERAGES.

1. Authorization. The City Commission shall have the authority to issue special permits for the sale of alcoholic beverages when authorized to do so by state law as provided in Sections 5-0201.1 and 5-0205.1, or any other state statute now in effect, or as amended, or enacted in the future which provides authority for cities to issue special permits for the sale of alcoholic beverages.
2. Licenses and Special Conditions. Any person or entity seeking a permit as authorized by paragraph 1 of this section must apply to the City Commission for such a permit. The City, in granting such a permit, shall have the authority to put additional conditions on the license over and above the conditions and requirements provided in state law, if the Commission deems it desirable to do so.
3. License Fee. The City, by resolution, may provide a schedule for fees for such special permits, which fees shall not exceed the maximum permitted by state law.
4. Restrictions on License. Any special permits given pursuant to this section shall be subject to all of the provisions of Chapter 10-01 of the Revised Ordinances of 1990 of the City of West Fargo, except where such provisions are in conflict with the provisions of state law authorizing special permits.
5. Revocation of License. The special licenses authorized by this section may be suspended or revoked by the City for violations of the terms of this section, as well as any other provisions of Chapter 10-01. In addition, violation of the provisions of this section also subject a violator to suspension or revocation of any other license for the sale of alcoholic beverages issued by the City of West Fargo pursuant to Section 10-0113.

10-0126. REGISTRATION OF BEER IN KEGS REQUIRED PRIOR TO SALE.

1. Any retail alcoholic beverage licensee who sells beer in a container with a liquid capacity greater than six (6) gallons [22.71 liters] must place the licensee's state retail alcoholic beverage license number on the container and also must mark the container with a "registration" number or letters, or both, unique to that container. The paint or ink used to mark the containers or other manner

of marking the containers must be approved by the attorney general.

2. Whenever a retail alcoholic beverage licensee sells beer in a container with a liquid capacity greater than six (6) gallons [22.71 liters], he or she shall record the date of sale and the name, address, and driver's license number or number of other official state or military identification card of the person to whom the beer is sold, together with the signature, and registration number, or letters of the container, or both. Such records must be retained for a period of no less than six (6) months and must be kept on the licensed premises of the retail establishment where the sales are made.
3. Each retail alcoholic beverage licensee shall permit any law enforcement officer to inspect the records required to be kept pursuant to this section during times the retail establishment is normally open for business or at other reasonable times.
4. This section does not apply to the sale of beer in a container by a retail alcoholic beverage licensee if the contents of the container are consumed on the licensed premises where the sale occurred.

10-0127. SUNDAY OPENING

1. Sunday licenses authorized. A Sunday alcoholic beverage license may be issued to a licensee licensed under this chapter. The Board of City Commissioners may issue Sunday licenses and permits under this section. The Sunday license shall be effective for one year.
2. Application for license. The application for a Sunday alcoholic beverage license must be made in writing and be accompanied by a fee the corresponding fee:

Sunday Beer/Wine: \$100.00 for the first year, \$50.00 renewal

Sunday Beer: \$100.00 for the first year, \$50.00 renewal

Sunday Off/On Liquor/Beer: \$260.00 per year

Sunday Off Sale Liquor/Beer: \$260.00 per year

Sunday On Sale Liquor/Beer: \$260.00 per year

3. Applications for a Sunday license must be received in the office of the City Administrator prior to July 1 and shall be valid until July 31 of the following year. Applications received after that time shall be valid for the remainder of the term with the fee prorated for the remaining Sundays.
4. Use of license: Under the Sunday alcoholic beverage license, alcoholic beverages may be distributed in the licensed areas of a licensed liquor establishment. The sales will be permitted between the hours of 12:00 noon on Sunday until 2:00 am on Monday.
5. The rules regarding revocation or suspension of licenses shall apply to this section.

10-0128. PUBLIC CONSUMPTION Of ALCOHOLIC BEVERAGES RESTRICTED.

1. No person shall consume any alcoholic beverages upon any street, avenue, alley, sidewalk, stairway, thoroughfare or other public property in an area zoned commercial within the City of West Fargo, nor in or upon the parking areas of any private shopping center, hotels, motels, licensed liquor establishments, restaurants, clubs, churches or similar establishments, nor in any area within a commercial property unless such area has been designated as part of a on sale licensed premise, or granted a special event permit under Section 10-0125, or been granted a permit by the City Auditor for a special event.
2. Any person who violates the provisions of this section shall, upon conviction thereof, be punished by a fine of not more than five hundred dollars.

10-0129. BOTTLE CLUBS PROHIBITED. It shall be unlawful to operate an establishment, other than a motel or hotel, whereby persons are allowed to bring their own alcoholic beverages on the premises where the proprietor sells soft drinks, mix, ice, or charges for bringing such beverages on the premises. Such prohibition shall not prohibit restaurants from charging a corking fee to a customer who brings his/her own wine to the restaurant.

CHAPTER 10-02

GAMBLING

SECTIONS:

- 10-0201. Games of Chance.
- 10-0202. Application for Local Gambling License or Site Authorization.
- 10-0203. Limitation on Site Authorizations.
- 10-0204. Limitation on Hours and Participation of Games of Chance.
- 10-0205. Availability of Records.

10-0201. GAMES OF CHANCE. Notwithstanding any other provision of the ordinances of the City of West Fargo to the contrary, it shall not be unlawful to play or conduct games of chance pursuant to Chapter 53-06.1 of the North Dakota Century Code, as that chapter may be amended from time to time, and any implementing rules and regulations of the Attorney General and guidelines established by the City of West Fargo by ordinance or resolution.

10-0202. APPLICATION FOR LOCAL GAMBLING LICENSE OR SITE AUTHORIZATION. No person or entity shall conduct a game of chance as defined in Section 10-0201 without first having obtained a license or site approval as required by state law. Applications for local gaming licenses, or applications for site approval shall be made to the City Auditor of the City of West Fargo. No site authorization nor gambling license shall be granted by the City of West Fargo unless the applicant follows the procedures and pays the fees as set by the City by resolution, which resolution shall be on file with the City Auditor.

10-0203. LIMITATION ON SITE AUTHORIZATIONS. No site authorization for pull tabs, jars, punch boards, twenty-one, or sports pools shall be granted by the City except to premises having an on-sale liquor license from the City of West Fargo. This section shall not repeal site authorizations in effect on the date this ordinance is adopted, nor shall it apply to renewals of site authorizations in effect on the date this ordinance is adopted. Provided, however, that the renewal of site authorizations which would otherwise be prohibited by this section may not expand the type of gambling to be conducted at the site, nor the maximum number of black jack tables to be used at the site over the types of gambling and number of tables permitted by the site

authorization in effect on the date of the adoption of this ordinance.

10-0204. LIMITATION ON HOURS AND PARTICIPATION OF GAMES OF CHANCE. A person under 21 years of age may not participate in the games of pull tabs, jars, punch boards, twenty-one, or sports pools. No games of chance shall be conducted in licensed liquor premises, or at premises for which site authorizations have been granted by the City of West Fargo other than during the hours when alcoholic beverages may be dispensed in accordance with the applicable regulations of the State of North Dakota and the City of West Fargo.

10-0205. AVAILABILITY OF RECORDS. The person or entity obtaining the site authorization shall make available to the City and/or the North Dakota Attorney General's office for inspection and audit any and all records relating to the expenses, proceeds, and distribution of the proceeds from the authorized site. Failure to do so upon reasonable notice shall be grounds for suspension or revocation of the site authorization.

CHAPTER 10-03
[Source: Ord. 693, Sec. 1 (2003)]

PAWNBROKERS

SECTIONS:

- 10-0301 Purpose.
- 10-0302 Definitions.
- 10-0303 Fixed premises and license required.
- 10-0304 License and renewal.
- 10-0305 Bond.
- 10-0306 Fee for license.
- 10-0307 Investigation fee.
- 10-0308 Effective period, renewal and suspension or revocation.
- 10-0309 Acts prohibited by minors.
- 10-0310 Required records.
- 10-0311 Daily reports to police.
- 10-0312 Receipt required.
- 10-0313 Redemption period.
- 10-0314 Holding period.
- 10-0315 Articles available for inspection.
- 10-0316 Police order to hold property.
- 10-0317 Label required.
- 10-0318 Motor vehicle title pawn transactions; special provisions.
- 10-0319 Prohibited acts.
- 10-0320 Reporting of sales.
- 10-0321 Penalty.

10-0301. PURPOSE. The City Commission recognizes the need to regulate pawnbrokers to provide the ability to identify stolen property presented to pawn shops and to identify those responsible for committing property crimes. The commission also determines the need to provide a basic level of consumer protection through a comprehensive pawnbroker ordinance.

To help the police department better regulate future pawn businesses, decrease and stabilize regulatory costs, and improve identification of criminal activities through the timely collection and sharing of transaction information, this chapter also implements and establishes the required use of the LEADS system or, at the discretion of the Chief of Police, the Automated Pawn System.

10-0302. DEFINITIONS.

1. "Licensee" shall mean all pawnbrokers required to be licensed by this chapter.

2. "Pawnbroker" shall mean any person who:

- A. Loans money on deposit or pledge of personal property, or other valuable thing;
- B. Deals in the purchasing of personal property or other valuable thing, on condition of selling the same back again at a stipulated price; or
- C. Loans money, secured by chattel mortgage on personal property, taking possession of the property or any part thereof so mortgaged.
- D. To the extent that a pawnbroker's business includes buying personal property previously used, rented or leased, or selling it on consignment, the provisions of this chapter shall be applicable.

3. "Person" shall mean any individual, partnership, corporation or association or any other legal entity, or any agent or employee thereof.

4. "Regulated transaction" shall include all purchases, loans, pawns, trades or consignments made by a pawnbroker.

5. "Reportable transaction" shall include every transaction conducted by a pawnbroker in which merchandise is received through a pawn, purchase, consignment or trade, or for which a unique transaction number or identifier is generated by their point-of-sale software, is reportable except:

- A. The bulk purchase or consignment of new or used merchandise from a merchant, manufacturer or wholesaler having an established permanent place of business, and the retail sale of said merchandise, provided the pawnbroker must maintain a record of such purchase or consignment which describes each item.
- B. Retail and wholesale sales of merchandise originally received by pawn or purchase, and for which all applicable hold and/or redemption periods have expired.

10-0303. FIXED PREMISES AND LICENSE REQUIRED. No person shall engage in business as a pawnbroker unless said person has a fixed premises where said business is conducted, either on a continuing basis or from time to time, and unless said person has first obtained a license to engage in that business at that premises. A separate license is required for each place of business. The City may issue more than one license to a person if the person complies with the requirements of the chapter. A license issued under this chapter shall be prominently displayed at the licensed premises during hours when such premises is open for business. If, during the effective period of a license issued under this chapter a licensee changes the location of the licensed premises within the City, such licensee shall inform the City Auditor and the Chief of Police of such change of location and shall have the new premises to be licensed noted on the license. There shall be no additional fee charged for changing the location of the licensed premises. The operation of a business as a pawnbroker without a license as required by this section shall be a class B misdemeanor.

10-0304. LICENSE AND RENEWAL.

1. Any person desiring to obtain, renew or transfer a license shall make and file an application for such license with the commission. The application shall be made on a form approved by the Chief of Police and made available through the office of the City Auditor. In addition to the information required on the application form, the commission, in its discretion, may require such other information as it deems necessary in determining whether a license should be issued to the applicant.

2. The holder of a license issued pursuant to the provisions of this ordinance who desires to renew said license for another license year, shall not be required to make and file a new application under this section but shall make and file a renewal application under the provisions of this section which shall require the payment of the renewal fee and shall include an affidavit indicating the current name and address of the licensee, and if said licensee is a corporation, the names and addresses of the resident manager, all corporate officers, and all shareholders holding more than 5% of the outstanding stock of the corporation, and such other information as the City may require. The renewal application and affidavit shall be on a form to be prescribed by the Chief of Police made available through the City Auditor's office.

3. The application for a new license or renewal of a license shall require that the applicant agrees to provide the police department with the records required by Section 10-0311 in a

format, including electronically transmitted digital data, as required by the police department.

4. The Chief of Police, or his designee, shall investigate the facts stated in the application filed with the Commission and shall report the results of the investigation to the Commission prior to the hearing on said application. Said investigation and report shall include the character, reputation, fitness of the applicant to hold a license, any other pertinent information and the recommendation of the Chief of Police, or his designee, as to whether or not such license should be granted. In addition, the Commission may request and consider such other recommendations and reports of other city officials.

5. Any pawnbroker as defined under Section 10-0302.2.D. shall not be required to purchase a separate license as a second-hand or precious metals dealer.

10-0305. BOND. Before a license will be issued or renewed, every applicant must submit a five thousand dollar (\$5,000.00) bond on the forms provided by the Auditor's office, with sufficient sureties to be approved by the Auditor's office. All bonds must be conditioned that the principal will observe all laws in relation to pawnbrokers and will conduct business in conformity thereto, and that the principal will account for and deliver to any person legally entitled any goods which have come into the principal's hand through the principal's business under this chapter, or in lieu thereof, will pay the reasonable value in money to the person. This language shall not be construed to apply to items the principal has legally disposed of under the requirements of this ordinance. The bond shall contain a provision that no bond may be canceled except upon thirty (30) days written notice to the Chief of Police.

Alternately, a licensee may provide proof to the Auditor's office of a separate dedicated account with a balance of \$5,000.

10-0306. FEE FOR LICENSE AND APPLICATION FEE. The fee for issuance of a license to engage in business as a pawnbroker shall be in such amount as shall be established by resolution of the Board of City Commissioners.

10-0307. INVESTIGATION FEE. The fee for the investigation of an initial application or renewal for a license to engage in business as a pawnbroker shall be paid to the City Auditor at the time an application is submitted. The amount of the investigation fee shall be established by resolution of the Board of City Commissioners.

10-0308. EFFECTIVE PERIOD, DENIAL, RENEWAL AND SUSPENSION OR REVOCATION. A license issued under this chapter shall be valid and effective until December 31 of the year for which the license applies. Every license issued under the provisions of this chapter shall be issued upon the understanding that such license may be revoked or suspended by the Board of City Commissioners at any time for good cause, for failure to comply with any provision of this chapter, or by any fraud, misrepresentation bribery, or false statements in the application, investigation, securing or renewing a license, or the conviction of a license holder of a violation of this chapter or any criminal conviction related to theft of property or any felony conviction. Notice of such revocation or suspension must be sent to the licensee by certified mail addressed to the licensee at the address set forth in the application. The Chief of Police shall be notified of the revocation or suspension of any license. The licensee may appeal a revocation or suspension to the Board of City Commissioners and request a public hearing on such revocation or suspension. If a person or entity has a pawnbroker's license in effect at the adoption of this ordinance, and is operating a business under the license, the current license shall stay in effect, but the licensee must comply with all the terms of this ordinance. If an entity has a license but is not operating a business under that license at the adoption of this ordinance, the license holder must reapply for a license, but the prior fee paid for the old license shall be applied to the new license fee. Upon expiration of a license already in effect at the time of the adoption of this ordinance, an application for a new license must be made, not a renewal.

10-0309. ACTS PROHIBITED BY MINORS. No person under the age of 18 years shall pawn, sell or otherwise initiate a reportable transaction with any person licensed to do business under this chapter nor may any licensee receive be involved in any reportable transaction from a person under the age of 18 years. No person under the age of 18 years shall represent to any person licensed under the provisions of this chapter, that he is 18 years of age or over.

10-0310. REQUIRED RECORDS. At the time of any reportable transaction other than renewals, extensions or redemptions, every licensee must immediately record in English the following information by using ink or other indelible medium on forms or in a computerized record approved by the Chief of Police. Such record shall specifically include:

1. A complete and accurate description of each item including, but not limited to any trademark, identification number, serial number, model number, brand name or other identifying mark on such an item.

2. The purchase price, amount of money loaned upon, or pledged.

3. The maturity date of the transaction and the amount due, including monthly and annual interest rates and all pawn fees and charges.

4. Date, time and place the item of property was received by the licensee, and the unique alpha and/or numeric transaction identifier that distinguishes it from all other transactions in the licensee's records.

5. Full name, current residence address and phone number, date of birth and accurate description of the person from whom the item of the property was received including sex, height, weight, race, color of eyes and color of hair.

6. The identification number and state of issue of a current state photo driver's license or state photo identification card.

7. The signature of the person identified in the transaction.

8. Renewals, extensions and redemptions. For renewals, extensions and redemptions, the licensee shall provide the original transaction identifier, the date of the current transaction, and the type of transaction.

9. Inspection of records. Transaction records must at all reasonable times be open to inspection by the police department during the licensee's business hours. Data entries shall be retained for at least three (3) years from the date of transaction.

10-0311. DAILY REPORTS TO POLICE. Licensees must submit every reportable transaction to the police department daily in the following manner:

Licensees must provide to the police department all information required in Section 10-0310 (1) through (7) and other required information, by transferring it from their computer to the LEADS system or, in the discretion of the Chief of Police, the Automated Pawn System, or both. If the Chief of Police elects to require use of the Automated Pawn System, the Chief of Police must give license holders 90 days' notice of such requirement. All required records must be transmitted completely and accurately each day in accordance with the standards and procedures established by the issuing authority. If a licensee is unable to successfully transfer the required information to LEADS, or the Automated Pawn System, if

applicable, the licensee must provide the police department printed copies of all reportable transactions, by 12:00 the next business day. The licensee must make all reasonable efforts to correct the problem as soon as possible.

Regardless of the cause or origin of the technical problems that prevented the licensee from uploading their reportable transactions, upon correction of the problem, the licensee shall upload every reportable transaction from every business day since the problem existed.

10-0312. RECEIPT REQUIRED. Every licensee must provide a receipt to the party identified in every reportable transaction and must maintain a duplicate of that receipt for three (3) years. The receipt must include the information identified in Section 10-0310 (1) through (7) RECORDS REQUIRED.

10-0313. REDEMPTION PERIOD. Any person pledging, pawning or depositing an item for security must have a minimum of sixty (60) days from the date of that transaction to redeem the item before it may be forfeited and sold. During the sixty (60) day period, items may not be removed from the licensed location.

10-0314. HOLDING PERIOD. Any item purchased by a licensee and defined in Section 10-0302.5 must not be sold or otherwise transferred for thirty (30) days from the date of the transaction.

10-0315. ARTICLES AVAILABLE FOR INSPECTION. All property received by a pawnbroker in a reportable transaction shall be made available for inspection by City police officers during reasonable business hours.

10-0316. POLICE ORDER TO HOLD PROPERTY.

1. Investigative hold. Whenever a law enforcement official from any agency notifies a licensee not to sell an item, the item must not be sold or removed from the premises. The investigative hold shall be confirmed in writing by the originating agency within seventy-two (72) hours and will remain in effect for fifteen (15) days from the date of initial notification, or until the investigative order is canceled, or until an order to hold/confiscate is issued, whichever comes first.

2. Order to hold. Whenever the Chief of Police, or the Chief's designee, notifies a licensee not to sell an item, the item must not be sold or removed from the licensed premises until authorized to be released by the Chief or the Chief's designee. The order to hold shall expire ninety (90) days from the date it is

placed unless the Chief of Police or the Chief's designee determines the hold is still necessary and notifies the licensee in writing.

3. Order to confiscate. If an item is identified as stolen or evidence in a criminal case, the Chief or Chief's designee may:

- A. Physically confiscate and remove it from the shop, pursuant to a written order from the Chief or the Chief's designee; or
- B. Place the item on hold or extend the hold as provided in section b, and leave it in the shop.

When an item is confiscated, the person doing so shall provide identification upon request of the licensee, and shall provide the licensee the name and phone number of the confiscating agency and investigator, and the case number related to the confiscation.

When an order to hold/confiscate is no longer necessary, the Chief of Police, or Chief's designee shall so notify the licensee.

10-0317. LABEL REQUIRED. Licensees must attach a label to every item at the time it is pawned, purchased or received in inventory from any reportable transaction. Permanently recorded on this label must be the number or name that identifies the transaction in the shop's records, the transaction date, the name of the item and the description or the model and serial number of the item as reported to the police department, whichever is applicable, and the date the item is out of pawn or can be sold, if applicable. Labels shall not be re-used.

10-0318. MOTOR VEHICLE TITLE PAWN TRANSACTIONS; SPECIAL PROVISIONS. In addition to the other requirements of this chapter, a pawnbroker who holds a title to a motor vehicle (to the extent permissible under North Dakota state law) as part of a pawn transaction shall:

1. Be licensed as a used motor vehicle dealer under the North Dakota Century Code and post such license on the pawnshop premises.

2. Verify that there are no liens or encumbrances against the motor vehicle with the department of motor vehicles.

10-0319. PROHIBITED ACTS:

1. No licensee may receive any goods, unless the seller presents identification in the form of a valid driver's license, a

valid State of North Dakota identification card, or current valid photo driver's license or identification card issued by the state or providence of residency of the person from whom the item was received.

2. No licensee may receive any item of property that possesses an altered or obliterated serial number or operation identification number or any item of property that has had its serial number removed.

3. No person may pawn, pledge, sell, consign, leave, or deposit any article of property not their own; nor shall any person pawn, pledge, sell, consign, leave, or deposit the property of another, whether with permission or without; nor shall any person pawn, pledge, sell, consign, leave, or deposit any article of property in which another has a security interest; with any licensee.

4. No person seeking to pawn, pledge, sell, consign, leave, or deposit any article of property with any licensee shall give a false or fictitious name; nor give a false date of birth; nor give a false or out of date address of residence or telephone number; nor present a false or altered identification, or the identification of another; to any licensee.

10-0320. REPORTING OF SALES. In addition to the reporting requirements set out elsewhere in this Chapter, the licensee, on all sales by licensee to a third party of items over \$500, must record the name, address and telephone number of the buyer and retain such record for a period of 24 months.

10-0321. PENALTY. Any person, firm or corporation violating the terms of this chapter, except as provided in Section 10-0303, shall upon conviction thereof, be guilty of an infraction, and punished by a fine not to exceed \$750 or such other amount as permitted under state law, the court to have power to suspend said sentence and to revoke the suspension thereof.

Source: Ord. 961, Sec. 3 (2013)

CHAPTER 10-03A
[Source: Ord. 692, Sec. 1 (2003)]

SECONDHAND GOODS DEALERS

Section:

- 10-03A01 Purpose.
- 10-03A02 Definitions.
- 10-03A03 Fixed premises and license required.
- 10-03A04 License and renewal.
- 10-03A05 Bond.
- 10-03A06 Fee for license.
- 10-03A07 Investigation fee.
- 10-03A08 Effective period, renewal and suspension or revocation.
- 10-03A09 Acts prohibited by minors.
- 10-03A10 Required records.
- 10-03A11 Daily reports to police.
- 10-03A12 Receipt required.
- 10-03A13 Holding period.
- 10-03A14 Articles available for inspection.
- 10-03A15 Police order to hold property.
- 10-03A16 Label required.
- 10-03A17 Prohibited acts.
- 10-03A18 RESERVED FOR FUTURE USE.

10-03A01. PURPOSE. The city commission recognizes the need to regulate secondhand dealers to provide the ability to identify stolen property that may be presented to secondhand shops and to identify those responsible for committing property crimes. The commission also determines the need to provide a basic level of consumer protection through a comprehensive ordinance.

To help the police department better regulate secondhand businesses, decrease and stabilize regulatory costs, and improve identification of criminal activities through the timely collection and sharing of transaction information, this chapter also implements and establishes the required use of the LEADS system or, at the discretion of the Chief of Police, the Automated Pawn System.

10-03A02. DEFINITIONS.

1. Licensee" shall mean all secondhand dealers required to be licensed by this chapter.

2. "Secondhand dealer" shall mean:

A. Any person, firm, or corporation other than a pawnbroker or dealer in precious metals and gems who purchase, collects, trades, sells, or deals in secondhand goods including, but not limited to: business machines, tape recorders and tapes, compact discs, radio transmitters and receivers, computer hardware, computer software, electronic games and their components, musical instruments, cameras and accessories, power tools, sporting goods, stereos, stereo equipment, tools and tool boxes, television sets, weapons, bicycles, radios microwave ovens, household furniture, appliances and jewelry.

B. Exemptions: any person --

- (1) dealing exclusively in the resale of new and/or used automobiles;
- (2) involved in the casual and occasional sales of used household goods by the owner to the public, if the seller is not engaged for profit in the business of selling goods of that nature; this category includes those sales commonly referred to as "garage sales";
- (3) operating a junkyard for wrecked automobiles;
- (4) conducting sales of secondhand goods at stores or events sponsored by nonprofit corporations or associations or fraternal or religious organizations;
- (5) dealing exclusively in the resale of secondhand books or magazines;
- (6) conducting the auction of goods by a licensed auctioneer;
- (7) operating a bona fide antique, used furniture or used clothing store.

3. "Person" shall mean any individual, partnership, corporation or association or any other legal entity, or any agent or employee thereof.

4. "Regulated transaction" shall include all purchases, trades or consignments made by a secondhand dealer.

5. "Reportable transaction" - all regulated transactions except:

- A. Any transaction where used articles are taken in trade against the purchase price of a new article sold for market value.
- B. The bulk purchase or consignment of new or used merchandise from a merchant, manufacturer or wholesaler having an established permanent place of business, and the retail sale of said merchandise, provided the secondhand dealer must maintain a record of such purchase or consignment which describes each item.
- C. Any item which has no unique identifier and/or contains no precious metals or gems and for which the licensee paid less than \$100.00.

10-03A03. FIXED PREMISES AND LICENSE REQUIRED. No person shall engage in business as a secondhand dealer unless said person has a fixed premises where said business is conducted, either on a continuing basis or from time to time, and unless said person has first obtained a license to engage in that business at that premises. A separate license is required for each place of business. The city may issue more than one license to a person if the person complies with the requirements of the chapter. A license issued under this chapter shall be prominently displayed at the licensed premises during hours when such premises is open for business. If, during the effective period of a license issued under this chapter, a licensee changes the location of the licensed premises within the city, such licensee shall inform the City Auditor and the Chief of Police of such change of location and shall have the new premises to be licensed noted on the license. There shall be no additional fee charged for changing the location of the licensed premises. The operation of a business as a secondhand dealer without a license as required by this section shall be a class B misdemeanor.

10-03A04. LICENSE AND RENEWAL. Any person desiring to obtain, renew or transfer a license shall make and file an application for such license with the commission. The application shall be made on a form approved by the Chief of Police and made available through the office of the City Auditor. In addition to the information required on the application form, the commission, in its discretion, may require such other information as it deems necessary in determining whether a license should be issued to the applicant.

The holder of an existing license issued pursuant to the provisions of this chapter who desires to renew said license for another license year, shall not be required to make and file a new application under this section but shall make and file a renewal application under the provisions of this section which shall require the payment of the renewal fee and shall include an affidavit indicating the current name and address of the licensee, and if said licensee is a corporation, the names and addresses of the resident manager, all corporate officers, and all shareholders holding more than 5% of the outstanding stock of the corporation, and such other information as the city may require. The renewal application and affidavit shall be on a form to be prescribed by the Chief of Police made available through the City Auditor's office.

The application for a new license or renewal of a license shall require that the applicant agrees to provide the police department with the records required by §10-0310A in a format, including electronically transmitted digital data, as required by the police department.

The Chief of Police shall investigate the facts stated in the application filed with the commission and shall report the results of the investigation to the commission prior to the hearing on said application. Said investigation and report shall include the character, reputation, fitness of the applicant to hold a license, any other pertinent information and the recommendation of the Chief of Police as to whether or not such license should be granted. In addition, the commission may request and consider such other recommendations and reports of other city officials.

10-03A05. BOND. Before a license will be issued or renewed, every applicant must submit a five thousand dollar (\$5,000.00) bond on the forms provided by the Auditor's office, with sufficient sureties to be approved by the Auditor's office. All bonds must be conditioned that the principal will observe all laws in relation to secondhand dealers and will conduct business in conformity thereto, and that the principal will account for and deliver to any person legally entitled any goods which have come into the principal's hand through the principal's business under this chapter, or in lieu thereof, will pay the reasonable value in money to the person. This language shall not be construed to apply to items the principal has legally disposed of under the requirements of the ordinance. The bond shall contain a provision that no bond may be canceled except upon thirty (30) days written notice to the Chief of Police.

Alternately, a licensee may provide proof to the Auditor's office of a separate dedicated account with a balance of \$5,000.

10-03A06. FEE FOR LICENSE AND APPLICATION FEE. The fee for issuance of a license to engage in business as a secondhand dealer shall be in such amount as shall be established by resolution of the Board of City Commissioners.

10-03A07. INVESTIGATION FEE. The fee for the investigation of +an initial application or renewal for a license to engage in business as a secondhand dealer shall be paid to the City Auditor at the time an application is submitted. The amount of the investigation fee shall be established by resolution of the Board of City Commissioners.

10-03A08. EFFECTIVE PERIOD, DENIAL, RENEWAL AND SUSPENSION OR REVOCATION. A license issued under this chapter shall be valid and effective until December 31 of the year for which the license applies. Every license issued under the provisions of this chapter shall be issued upon the understanding that such license may be revoked or suspended by the Board of City Commissioners at any time for good cause, for failure to comply with any provision of this chapter, or by any fraud, misrepresentation bribery, or false statements in the application, investigation, securing or renewing a license, or the conviction of a license holder of a violation of this chapter or any criminal conviction related to theft of property regulations or any felony conviction. Notice of such revocation or suspension must be sent to the licensee by certified mail addressed to the licensee at the address set forth in the application. The Chief of Police shall be notified of the revocation or suspension of any license. The licensee may appeal a revocation or suspension to the Board of City Commissioners and request a public hearing on such revocation or suspension.

10-03A09. ACTS PROHIBITED BY MINORS. No person under the age of 18 years shall sell or otherwise initiate a reportable transaction with any person licensed to do business under this chapter nor may any licensee participate in a reportable transaction with a person under the age of 18 years. No person under the age of 18 years shall represent to any person licensed under the provisions of this chapter that he is 18 years of age or over.

10-03A10. REQUIRED RECORDS. At the time of any reportable transaction every licensee must immediately record in English the following information by using ink or other indelible medium on forms or in a computerized record approved by the Chief of Police. Such record shall specifically include:

1. A complete and accurate description of each item including, but not limited to any trademark,

identification number, serial number, model number, brand name or other identifying mark on such an item.

2. The purchase price.
3. Date, time and place the item of property was received by the licensee, and the unique alpha and/or numeric transaction identifier that distinguishes it from all other transactions in the licensee's records.
4. Full name, current residence address and phone number, date of birth and accurate description of the person from whom the item of the property was received including sex, height, weight, race, color of eyes and color of hair.
5. The identification number and state of issue of a current state photo driver's license or state identification.
6. The signature of the person identified in the transaction.
7. Inspection of records. Transaction records must at all reasonable times be open to inspection by the police department during the licensee's business hours. Data entries shall be retained for at least three (3) years from the date of transaction.

10-03A11. DAILY REPORTS TO POLICE. Licensees must submit every reportable transaction to the police department daily in the following manner:

1. Licensees must provide to the police department all information required in §10-03A10 (A) through (E) and other required information, by transferring it from their computer to the LEADS system or, at the discretion of the Chief of Police, the Automated Pawn System. All required records must be transmitted completely and accurately each day in accordance with the standards and procedures established by the issuing authority. If a licensee is unable to successfully transfer the required information to LEADS or, at the discretion of the Chief of Police, the Automated Pawn System, the licensee must provide the police department printed copies of all reportable transactions by 12:00 the next business day. The licensee must make all reasonable efforts to correct the problem as soon as possible.
2. Regardless of the cause or origin of the technical problems that prevented the licensee from uploading their

reportable transactions, upon correction of the problem, the licensee shall upload every reportable transaction from every business day since the problem existed.

10-03A12. RECEIPT REQUIRED. Every licensee must provide a receipt to the party identified in every reportable transaction and must maintain a duplicate of that receipt for three (3) years. The receipt must include the information (A) through (F) identified in §10-03A10.

10-03A13. HOLDING PERIOD. Any item purchased by a licensee and defined in §10-03A02 (5) must not be sold or otherwise transferred for fourteen (14) days from the date of the transaction.

10-03A14. ARTICLES AVAILABLE FOR INSPECTION. All personal property, other valuable things, precious metals or precious gems purchased by a secondhand dealer in a reportable transaction shall be made available for inspection by city police officers during reasonable business hours.

10-03A15. POLICE ORDER TO HOLD PROPERTY.

1. Investigative hold. Whenever a law enforcement official from any agency notifies a licensee not to sell an item, the item must not be sold or removed from the premises. The investigative hold shall be confirmed in writing by the originating agency within seventy-two (72) hours and will remain in effect for fifteen (15) days from the date of initial notification, or until the investigative order is canceled, or until an order to hold/confiscate is issued, whichever comes first.
2. Order to hold. Whenever the Chief of Police, or the Chief's designee, notifies a licensee not to sell an item, the item must not be sold or removed from the licensed premises until authorized to be released by the Chief or the Chief's designee. The order to hold shall expire ninety (90) days from the date it is placed unless the Chief of Police or the Chief's designee determines the hold is still necessary and notifies the licensee in writing.
3. Order to confiscate. If an item is identified as stolen or evidence in a criminal case, the Chief or Chief's designee may:

- A. Physically confiscate and remove it from the shop, pursuant to a written order from the Chief or the Chief's designee, or
- B. Place the item on hold or extend the hold as provided in subsection B above, and leave it in the shop.

When an item is confiscated, the person doing so shall provide identification upon request of the licensee, and shall provide the licensee the name and phone number of the confiscating agency and investigator, and the case number related to the confiscation.

When an order to hold/confiscate is no longer necessary, the Chief of Police, or Chief's designee shall so notify the licensee.

10-03A16. LABEL REQUIRED. Licensees must attach a label to every item at the time it is purchased or received in inventory from any reportable transaction. Permanently recorded on this label must be the number or name that identifies the transaction in the shop's records.

10-03A17. PROHIBITED ACTS:

- 1. No licensee may receive any goods, unless the seller presents identification in the form of a valid driver's license, a valid State of North Dakota identification card, or current valid photo driver's license or identification card issued by the state or providence of residency of the person from whom the item was received.
- 2. No licensee may receive any item of property that possesses an altered or obliterated serial number or operation identification number or any item of property that has had its serial number removed.
- 3. No person may sell or consign any article of property not their own; nor shall any person sell or consign the property of another, whether with permission or without; nor shall any person sell or consign any article of property in which another has a security interest; with any licensee.
- 4. No person seeking to sell or consign any article of property with any licensee shall give a false or fictitious name; nor give a false date of birth; nor give a false or out of date address of residence or telephone number; nor present a false or altered identification, or the identification of another; to any licensee.

10-03A18. RESERVED FOR FUTURE USE.
(Repealed by Ord. 961, Sec. 11 (2013))

CHAPTER 10-04

SUNDAY OPENING - FOOD STORES

SECTIONS:

10-0401. Opening Food Stores on Sunday.

10-0401. OPENING FOOD STORES ON SUNDAY. Food stores may be operated on Sunday as provided in Subsection 30 of Section 12.1-30-03 of the North Dakota Century Code, without limitation as to the number of employees which may work at any one time on a Sunday.

Source: Ord. No. 388, Sec. 1 (1989)

CHAPTER 10-05

CITY LODGING TAX

(Source: Ord. 763, Sec. 1, 2005)

SECTIONS:

- 10-0501. Definitions
- 10-0502. Tax on Gross Receipts
- 10-0503. Collection of Tax
- 10-0504. Tax Receipts - Utilization
- 10-0505. Establishment of A New Visitor's Committee
- 10-0506. Budget
- 10-0506.1 Budget
- 10-0507. Failure to Comply - Penalty

10-0501. DEFINITIONS.

1. "Gross receipts" shall mean receipts of retailers for the leasing or renting, for periods of less than thirty (30) consecutive calendar days or one month, of hotel, motel, or tourist court accommodations within the corporate limits of the City of West Fargo.
2. "Retailer" shall mean any person, firm or corporation in the business of leasing or renting hotel, motel or tourist court accommodations for periods of thirty (30) or less consecutive calendar days or one month.
3. "Visitor's Promotion Fund" shall be comprised of the funds created by collection of the two percent (2%) tax pursuant to Section 40-57.3-01 of the North Dakota Century Code, less any amount which may be retained by the state for the collection of such tax.
4. "Visitor's Promotion Capital Construction Fund" shall be comprised of the funds created by collection of the one percent (1%) tax pursuant to Section 40-57.3-01.1 of the North Dakota Century Code, less any amount which may be retained by the state for the collection of such tax.

10-0502. TAX ON GROSS RECEIPTS. A tax of two percent (2%) pursuant to Section 40-57.3-01 of the North Dakota Century Code is hereby imposed upon gross receipts as defined herein. A tax of one percent (1%) pursuant to Section 40-57.3-01.1 of the North Dakota Century Code is hereby imposed upon gross receipts as defined herein. Said tax shall be in addition to the state sales tax on retail accommodations provided in Chapter 57-39.2 of the North Dakota Century Code.

10-0503. COLLECTION OF TAX. The tax hereby imposed shall be due and payable at the same time the retailer is required to file a return under Chapter 57-39.2 of the North Dakota Century Code, and shall be collected and administered by the City of West Fargo under its Home Rule Charter in accordance with the provisions of state law.

Source: Ord. 956, Sec. 1 (2013)

10-0504. TAX RECEIPTS - UTILIZATION.

1. Visitor's Promotion Fund. There is hereby created a fund to be known as the Visitor's Promotion Fund, and all taxes collected pursuant to the two percent (2%) tax pursuant to Section 40-57.3-01 of the North Dakota Century Code shall be placed in this fund and utilized for the purpose to promote, encourage and attract visitors to come to the City of West Fargo and use the travel and tourism facilities within the City.
2. Visitor's Promotion Capital Construction Fund. There is hereby created a fund to be known as the Visitor's Promotion Capital Construction Fund, and all taxes collected pursuant to the one percent (1%) tax pursuant to Section 40-57.3-01.1 of the North Dakota Century Code shall be placed in this fund and utilized for the purpose of tourism or the purchase, equipping, improving, construction, maintenance, repair, and acquisition of buildings or property consistent with visitor attraction or promotion.
3. Fargo-Moorhead Convention and Visitors Bureau. After the effective date of this ordinance, all new gross receipts shall be collected and administered by the Fargo-Moorhead Convention and Visitors Bureau pursuant to an agreement with the City of West Fargo. The members of the Board of Directors of the Fargo-Moorhead Convention and Visitors Bureau shall receive no compensation payable from the Visitor's Promotion Fund, or Visitor's Promotion Capital Construction Fund except reimbursement for necessary expenses. The monies from the gross revenues already placed into the Visitor's Promotion Fund and Visitor's Promotion Capital Construction Fund held by the City of West Fargo shall continue to be administered by the Visitors' Committee established in Section 10-0505, as well as any new monies placed into those funds by the City of West Fargo in the future.

Source: Ord. 956, Sec. 2 (2013)

10-0505. ESTABLISHMENT OF A NEW VISITOR'S COMMITTEE. The Visitor's Committee in existence as of the date of this ordinance

is hereby abolished and there is hereby created a new Visitor's Committee, which shall serve as an advisory committee to the governing body of the City in administering the proceeds from the taxes available to the City under this ordinance. The committee shall be comprised of five members, who shall have terms of four (4) years, except that two of those initially appointed shall be appointed for an initial term of two (2) years. Vacancies shall be filled in the same manner as the initial appointment. The members appointed to the Visitor's Committee by the City Commission shall come from the following groups:

1. One member of the City Commission.
2. Four members who are residents of the City of West Fargo.

Should the City Commission not find a sufficient number of volunteers from the above groups to fill the committee, the City Commission shall be free to appoint any person to fill that position or positions.

The committee each year shall prepare a proposed budget for the expenditure of the Visitor's Promotion Fund and the Visitor's Promotion Capital Construction Fund, and present that budget to the City Commission.

Source: Ord. 870, Sec. 1 (2010)

10-0506. BUDGET. The proposed budget of the Visitor's Committee shall be presented to the City Commission, which shall have the authority to approve the final budget for use of the funds in the Visitor's Promotion Fund and the Visitor's Promotion Capital Construction Fund each year. No funds shall be expended from the Visitor's Promotion Fund or the Visitor's Promotion Capital Construction Fund for a particular year until that budget has been approved by the City. After approval of the budget, the City Auditor may disburse funds from the Visitor's Promotion Fund and the Visitor's Promotion Capital Construction Fund in accordance with the budget adopted by the Commission.

10-0506.1 BUDGET. The budget for the Fargo-Moorhead Convention and Visitors Bureau for the funds received under this Chapter shall be in accordance with State law and approved annually by the City Commission.

Source: Ord. 956, Sec. 3 (2013)

10-0507. FAILURE TO COMPLY - PENALTY. The penalties and liabilities provided in Sections 57-39.2-18 and 57-39.2-18.1 of the North Dakota Century Code shall apply to the filing of returns and the administration of the taxes imposed under this ordinance.

CHAPTER 10-06

TOBACCO PRODUCT LICENSING

Source: Ord. 997, Sec. 1 (2014)

SECTIONS:

- 10-0601. Definitions.
- 10-0602. License Required.
- 10-0603. Prohibited Sales.
- 10-0604. Administrative Remedies.

10-0601. DEFINITIONS.

1. E-CIGARETTE, ELECTRONIC CIGARETTE, OR ELECTRONIC SMOKING DEVICE. Any electronic oral device, such as one composed of a heating element and battery or electronic circuit, or both, which provides a vapor of nicotine or any other substances, and the use or inhalation of which simulates smoking. The term shall include any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, or e-pipe, or under any other product, name or descriptor, and also includes any cartridge or other component of the device.
2. INDIVIDUALLY-PACKAGED TOBACCO PRODUCTS. Any package containing only one individually-wrapped tobacco product. This definition includes, but is not limited to, single packs of cigarettes, single bags of tobacco product for rolling, and individual cans of tobacco product for chewing or sniffing.
3. PROBATIONARY PERIOD. A period of 12 months for a violation which is not within any period of probation already established by a violation of any of this section, which 12 months shall be defined as commencing on the date of the said first offense and shall extend for 12 consecutive months thereafter. If any subsequent offenses occur within the said 12-month period, the probationary period for any such subsequent offense shall extend for either the same 12 consecutive months from the date of the first offense, as described above, or for a period of 6 months from the date of the subsequent offense, whichever period would expire later. For purposes of this section, an offense is deemed to have occurred when the offense is committed, and not the date of judgment or conviction.
4. SELF-SERVICE MERCHANDISING. Any open display of tobacco products to which the public has access without the intervention of an employee of the retail establishment.
5. TOBACCO PRODUCTS. Any product that is made from or derived from tobacco, which contains nicotine or a

similar substance, and is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled or ingested by any other means, including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, snus, e-cigarette, electronic cigarette, or an electronic smoking device. Tobacco product also includes pipes and rolling papers, but does not include any product specifically approved by the U.S. Food and Drug Administration for legal sale as a tobacco cessation product and is being marketed and sold solely for that approved purpose.

6. VENDING MACHINE. Any mechanical, electric, or electronic device which, upon insertion of money, tokens, or any other form of payment, dispenses tobacco products.

10-0602. LICENSE REQUIRED. No person or entity shall directly or indirectly, or by means of any device, keep for retail sale, sell at retail, or otherwise dispense any tobacco products within the City of West Fargo without a City of West Fargo tobacco product dealer's license. Any person or entity that has a state license for the sale of tobacco products issued pursuant to Chapter 57-36 of the North Dakota Century Code shall automatically be deemed to have a license issued by the City of West Fargo for the sale of tobacco products without the need for an application to the City or any action of the City of West Fargo. As long as the person or entity has a state license issued under Chapter 57-36 for the sale of tobacco products, they shall be deemed to have a license from the City of West Fargo for the sale of tobacco products, unless and until the City license is suspended or revoked pursuant to this chapter. There shall be no fee for the municipal license.

10-0603. PROHIBITED SALES.

1. No person or entity shall sell, offer for sale, give away or deliver any tobacco product to any person under the age of eighteen (18) years.
2. No person shall sell or dispense any tobacco product through the use of a vending machine except as follows:
 - a. A vending machine may be used to dispense tobacco products in an area within a factory, business, office or other place not open to the general public or to which persons under eighteen (18) years of age are not generally permitted access.
 - b. A vending machine may be used to dispense tobacco products on the premises of a licensed on-sale or off-sale intoxicating liquor establishment, including club licenses. Provided, however, that if an on-sale licensed premises is also a restaurant, a vending machine located in a portion of the premises in which minors are allowed must be

operable only by activation of an electronic switch operated by an employee of the establishment before each sale, or by insertion of tokens provided by an employee of the establishment before each sale.

3. No person shall sell or dispense any tobacco product through the use of self-service merchandising methods or displays.

10-0604. ADMINISTRATIVE REMEDIES.

1. ADMINISTRATIVE FINE, SUSPENSION, OR REVOCATION. Any violation of the City's regulations relating to the issuance of a tobacco products' license or of any conditions/restrictions attached to the issuance of such license shall be cause for the imposition of an administrative fine, license suspension, and/or license revocation.

If the violation relates to the sale of tobacco products to minors by a licensee or licensee's employees, the following administrative suspensions, or revocations shall be imposed:

- a. The first such violation shall subject licensee to a written warning.
 - b. The second violation within the probationary period shall subject licensee to a 3-day suspension of the license.
 - c. The third violation within the probationary period shall subject licensee to a 10-day suspension of the license.
 - d. Subsequent violations within the probationary period shall subject licensee to a 30-day license suspension.
 - e. If any sale of tobacco products occurs on licensee's premises during a period of suspension, the license shall be suspended for the full probationary period.
 - f. For purposes of establishing the number of offenses committed by a licensee, the licensee is deemed to have committed only one offense during any 24-hour day.
2. ADMINISTRATIVE HEARING/WAIVER. Upon receipt of information indicating that a license violation has occurred, the Police Chief or his designee shall send a license violation notice to licensee by certified mail. The license violation notice shall indicate the nature of the violation and whether such violation will result in

an administrative fine, license suspension, or license revocation.

If the proposed disposition includes a license suspension, revocation, or fine, the notice shall also indicate that licensee has the option of requesting a hearing before the City Commission prior to the license suspension, revocation, or imposition of fine, or waiving such hearing and accepting the disposition described in the license violation notice. The licensee shall file a written request for a hearing within ten (10) days of the date specified in the license violation notice, or licensee shall be deemed to have waived its right to a hearing. Upon receipt of a hearing request, the Police Chief or his designee shall schedule a hearing before the City Commission at the earliest opportunity and shall send a hearing notice to licensee by certified mail.

3. CLERK PENALTIES. Any employee of a license holder who is in violation of the restriction attached to a tobacco product license shall be subject to an administrative fine of Fifty and no/100 Dollars (\$50.00).

CHAPTER 10-07

TATTOOS, BODY ART AND BODY PIERCING

(Ord. 598, Sec. 1 (2000))

Section:

- 10-0701. Definitions.
 - 10-0702. Unlawful to Operate Body Art Establishment Without Permit--Exemptions.
 - 10-0703. Permit to Operate Body Art Establishment Issued Annually--Fee--Application Form--Display of Permit Required--Adoption of Regulations.
 - 10-0704. Inspections of Permitted Premises.
 - 10-0705. Licenses--Termination, Suspension, Revocation.
 - 10-0706. Unlawful Practices.
 - 10-0707. RESERVED FOR FUTURE USE.
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10-0701. DEFINITIONS. As used in this ordinance, unless the context otherwise indicates, the following definitions shall apply:

1. "Body Art" means the practice of physical body adornment by permitted establishments and operators using, but not limited to, the following techniques: body piercing, tattooing, cosmetic tattooing, branding, and scarification.
2. "Body Art Establishment" means any place or premise where the practices of body art, whether or not for profit, are performed, except where such practices are performed by a physician or surgeon who has a current license for the practice of medicine issued by the State of North Dakota pursuant to Chapter 43-17 of the North Dakota Century Code.
3. "Body Piercing" means puncturing or penetration of the skin of a person with pre-sterilized single-use needles and the insertion of pre-sterilized jewelry or other adornment thereto in the opening, except that puncturing the outer perimeter or lobe of the ear with a pre-sterilized single-use stud-and-clasp ear-piercing system shall not be included in this definition.
4. "Ear Piercing" means the puncturing of the non-cartilaginous perimeter or lobe of the ear with a pre-sterilized single-use stud-and-clasp ear-piercing system following manufacturer's instructions.
5. "Operator" means any person who controls, operates, manages, conducts, or practices body art activities at a body art establishment. The term includes an assistant or technician who performs body art activities and who works under the supervision, control or authority of somebody else who is an operator.

6. "Person" means an individual, any form of business or social organization or any other non-governmental legal entity, including but not limited to corporations, partnerships, limited-liability companies, trusts or unincorporated organizations.
7. "Physician" means a person currently licensed by the state of North Dakota to practice medicine pursuant to the provisions of Chapter 43-17 of the North Dakota Century Code.
8. "Tattooing" means any method of placing ink or other pigment into or under the skin or mucosa by the aid of needles or any other instrument used to puncture the skin, resulting in permanent coloration of the skin or mucosa. This term includes all forms of cosmetic tattooing.

10-0702. UNLAWFUL TO OPERATE BODY ART ESTABLISHMENT WITHOUT PERMIT--EXEMPTIONS. It shall be unlawful to operate a body art establishment unless a permit is first obtained from the City Auditor. The provisions of this chapter do not apply to physicians nor to individuals who pierce only the non-cartilaginous perimeter and lobe of the ear with a pre-sterilized single-use stud-and-clasp ear-piercing system are exempt from these regulations; provided, however, that such individuals shall not be exempt from the applicable U.S. Food and Drug Administration requirements.

10-0703. PERMIT TO OPERATE BODY ART ESTABLISHMENT ISSUED ANNUALLY--FEE--APPLICATION FORM--DISPLAY OF PERMIT REQUIRED--ADOPTION OF REGULATIONS. The permit described in Section 10-0702 hereof shall be issued annually, January 1, by the City Auditor after an inspection and approval of the proposed body art establishment by the City Health Officer or his designee. The fee therefor shall be as established by resolution of the Board of City Commissioners and applicants shall fill in and sign an application form furnished by the City Auditor along with a scale drawing and floor plan of the proposed body art establishment. The permit shall be non-transferable. The permit shall be displayed prominently in the body art establishment where it may be readily observed by clients.

The City does hereby adopt the Regulations for Owners and Operators of Body Art Establishments adopted by the City of Fargo as may be amended from time to time as the applicable regulations in the City of West Fargo. A copy of such regulations shall be posted in all Body Art Establishments in a prominent location so that they may be read by clients and by operators and technicians of a body art establishment.

10-0704. INSPECTIONS OF PERMITTED PREMISES. The Chief of Police, or any officer of the police department, or any health officer or any agency which the City has contracted to do such work, may, at any time, enter upon any permitted premises for the

purpose of inspection or to determine whether the permitted premises are in compliance with any and all ordinances of the City and regulations adopted by the City of West Fargo. A copy of the inspection report must be furnished to the permit holder or operator of the body art establishment.

10-0705. LICENSES--TERMINATION, SUSPENSION, REVOCATION. All permits issued under the provisions of this chapter, unless otherwise specifically provided, shall terminate on December 31 following the date of issuance; provided, however, that any license issued under the provisions of this chapter may, under certain circumstances, be terminated, suspended or revoked by the Commission.

1. The Commission may, in its discretion, suspend or revoke for cause any permit issued under the provisions of this chapter. The grounds for suspension or revocation shall, among others, include the following:
 - a. The permittee has filed a petition in bankruptcy.
 - b. An individual permittee, one of the partners in a partnership permittee, or one of the officers in a corporation permittee, or any individual in active management of the permitted business is convicted of violating any of the provisions of this chapter.
 - c. The permittee has been convicted of a felony under the laws of the United States or under the laws of one of the several states.
 - d. The permittee has made any false statement in his application for a permit.
 - e. The permittee has violated one or more of the regulations created pursuant to Section 10-0703.
2. The grounds enumerated in subsection 1 of this section shall not be deemed to be exclusive and any permit issued under the provisions of this chapter may be suspended or revoked by the commission for any other reason deemed by the commission to be sufficient in order to promote and protect the health, safety, and welfare of the public. When any permit is suspended or revoked by the commission pursuant to the provisions of this section, or when the permittee voluntarily ceases business, no portion of the permit fee previously paid shall be returned to the permittee or to anyone claiming under or through him.
3. No permit issued under the provisions of this chapter shall be suspended or revoked for cause by the Commission without a public hearing. In the event that the Commission intends to consider the suspension or revocation of any permit for cause, it shall direct the City Auditor to notify the permittee of its intention to

consider the same. The notice shall specify the time and place of the suspension or revocation hearing and shall be served upon the permittee or his managing agent in the same manner as provided by law for the service of a summons in a civil action. No suspension or revocation hearing shall be held before the expiration of 15 days after the date of the service of the notice upon the permittee.

If, upon such hearing, it appears to the Commission that sufficient cause exists for the suspension or revocation of a permit issued pursuant to the provisions of this chapter, the Commission shall make its order suspending or revoking the said permit.

10-0706. UNLAWFUL PRACTICES. In addition to such other prohibitions as are contained in this chapter:

1. No person shall perform body art on any body part of a person under the age of 18 without the written consent of the parent or legal guardian of such minor and without said parent or legal guardian being present during such procedure.
2. No person shall obtain or attempt to obtain any body art establishment permit by means of fraud, misrepresentation or concealment.
3. No person shall perform body art procedures unless such procedures are performed in a body art establishment with a current permit.
4. No person shall perform body art procedures unless they are at least 18 years of age.
5. No person shall interfere with an appropriate enforcement officer in the performance of an inspection or in the performance of any other duties. Willful failure by the permittee to post regulations which are required to be posted pursuant to Section 10-0703 of this chapter shall be unlawful.

10-0707. RESERVED FOR FUTURE USE.
(Repealed by Ord. 961, Sec. 12 (2013))

CHAPTER 10-08
(Source: Ord. 696, Sec. 1 [2003])

CONTROL AND REGULATION OF FOOD SERVICE ESTABLISHMENTS

Section:

- 10-0801. Definitions.
- 10-0802. Food service establishments and vehicles to be kept clean.
- 10-0803. Inspection of food service establishments.
- 10-0804. Food service establishments--Inspection of premises--Inspection fee--Suspension of license.
- 10-0805. Unwholesome food, water, or other provisions not to be brought into City--Unwholesome and unsafe water defined.
- 10-0806. Sale of meat--Regulations.
- 10-0807. North Dakota requirements for food and beverage establishments adopted.

10-0801. Definitions. In this chapter, unless the context otherwise requires:

1. "Adulterated food" means food which bears or contains any poisonous or deleterious substance in a quantity which may render it injurious to health or which bears or contains added poisonous or deleterious substance for which no safe tolerance has been established by regulation, or in excess of such tolerance if one has been established. A food which consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for human consumption. A food which has been processed, prepared, packed or held under unsanitary conditions, whereby it may have become contaminated with filth or rendered injurious to health. A food which is in whole or in part the product of a diseased animal, or an animal which had died otherwise than by slaughter. A food which is in a container composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health.
2. "Commissary" means a catering establishment, restaurant, or any other place in which food, containers, utensils, equipment, or supplies are kept, handled, cleaned, prepared, packaged, and stored, including a service center or base of operations directly from which catering sites, temporary food units, mobile food units or any other off premise locations are supplied or serviced. The term does not include an area or conveyance at a vending machine location used for the temporary storage of packaged food or beverages.

3. "Department" means Fargo Cass Public Health or its designated agent.
4. "Food service establishment" means any restaurant, limited restaurant coffee shop, cafeteria, short-order cafe, luncheonette, grill, tearoom, sandwich shop, soda fountain, concession stand, tavern, bar, catering kitchen, institutional kitchen, delicatessen, bakery, grocery store, meat market, food processing plant, mobile unit, temporary unit, or any stall, shop, store, warehouse, storehouse, or wagon, truck, or other vehicle, or any other similar place in which food or drink is held, kept, stored prepared for sale or service, to the public on the premises or elsewhere with or without charge.
5. "Food processing facility" means a commercial operation that manufactures, packages, labels, or stores food for human consumption and does not provide food directly to the consumer and is operating under a federal or state inspection program.
6. "Limited restaurant" means a food service establishment that is restricted to a specific menu as determined by the Department or an establishment serving only prepackaged foods, such as frozen pizza and sandwiches, which receive no more than heat treatment and are served directly in the package or on single-serve articles.
7. "License means a written authorization to operate issued by the Department.
8. "Misbranded" means prepackaged manufactured food that lacks a label containing the name and place of business of the manufacturer, packer, or distributor; or an accurate statement of the contents; or if it is offered for sale under the name of another food or if it purports to be or is represented as a food for which a definition and standard of identity has been prescribed and it is not. Misbranding shall also mean the use or absence of any written, printed or graphic matter upon or accompanying food or containers of food which violates any applicable local, State, or Federal labeling identification, or representation requirements.
9. "Mobile food unit" means a vehicle-mounted food service establishment designed to be readily movable.
10. "Prepackaged food" means any properly labeled processed food, prepackaged to prevent any direct human contact with the food product upon distribution from the manufacturer, and prepared at a facility approved by the Department.

11. "Primal cut" means a basic major cut into which carcasses and sides of meat are separated, such as but not limited to a beef round, pork loin, lamb flank, or veal breast.
12. "Proprietor" includes the person in charge of a food service establishment whether as owner, lessee, manager, or agent.
13. "Restaurant" includes every building or other structure, or any part thereof, and all buildings in connection therewith, that are permanently kept, used, maintained, advertised, or held out to the public as a place where meals or lunches are served. The term includes a limited restaurant restricted to a specified menu.
14. "Retail food store/grocery" means any establishment or section of an establishment where food and food products are offered to the consumer and intended for offpremise consumption. The term does not include an establishment that handles only prepackaged nonpotentially hazardous foods, such as candies and other snack foods, roadside or produce markets that offers only whole, uncut fresh fruits and vegetables for sale, or food and beverage vending machine.
15. "Retail meat market" means a commercial establishment and buildings or structures connected with it, used to process primal cuts of meat and then store and display meat products for retail sale to the public for human consumption. The term does not include a meat establishment operating under the federal or state meat inspection program.
16. "Temporary food service establishment" means any food service establishment that operates at a fixed location, approved by the Department, for not more than fourteen consecutive days in conjunction with a single event or celebration. The term does not include a nonprofit public-spirited organization or person providing a limited type of food service, such as prepackaged nonpotentially hazardous food items.

10-0802. FOOD SERVICE ESTABLISHMENTS AND FOOD SERVICE VEHICLES TO BE KEPT CLEAN. Every person keeping, maintaining, or being in charge of any public or private market, bakery, bar, restaurant, grocery, meat market, mobile unit, temporary unit, or any other food service establishment, stall, shop, store, warehouse, storehouse, or wagon, truck, or other vehicle in, on, or about which any meat, fish, oysters, birds or fowls, vegetables, fruit, or other provisions are held, kept, stored, or offered for sale or other disposition shall keep such public or private market, bakery, bar, restaurant, grocery, meat market, mobile unit, temporary unit, or any other food service establishment, stall, shop, warehouse, storehouse, or wagon, truck, or other vehicle in a clean, pure, and wholesome condition; and if any such person

shall allow or permit the same to be, become, or remain unclean, impure, or unwholesome, he shall be guilty of a violation of this article.

10-0803. INSPECTION OF FOOD SERVICE ESTABLISHMENTS. Every food service establishment, shall be inspected by the Department as often as necessary to determine compliance with this chapter. Frequency of inspections shall be based on a system of risk categorization which involves types of foods served, the preparation steps these foods require, volume of food, population served, the number of people served, and previous compliance history. It shall be the duty of the Department to visit, as often as required, each public and private market, bakery, bar, restaurant, grocery, meat market, mobile unit, temporary unit, or any other food service establishment, stall, shop, store, warehouse, and storehouse in the City and each and all wagons, trucks, or other vehicles of vendors or street hawkers in, at, or about which any meat, fish, oysters, birds or fowls, vegetables, fruit, or other provisions are kept, held, or carried for sale or other disposition as human food and to examine and carefully inspect all such meat, fish, oysters, birds or fowls, vegetables, fruit, or other provisions, and if any adulterated, misbranded, mislabeled, unhealthy, unwholesome, or deleterious meat, fish, oysters, birds, or fowls, vegetables, fruit, or other provisions so intended for sale or other disposition as human food is found in or about any such public or private market, bakery, bar, restaurant, grocery, meat market, mobile unit, temporary unit, or any other food service establishment, stall, shop, store, warehouse, or storehouse, or in any wagon, truck, or other vehicle of vendors or street hawkers, the Department shall at once give the person in charge or temporarily in charge of the same notice to remove at once the same out of said City or to such place as the Department shall direct or to destroy the same. The person in whose custody and possession the same shall be found to be shall at once remove the same out of the City or to such place as the Department shall direct or destroy the same as may be directed. Department, if deemed advisable, may take possession of such adulterated, misbranded, mislabeled, unhealthy, unwholesome meat, fish, oysters, birds, fowls, vegetables, fruit, or other provisions so intended for sale or other disposition as human food and destroy the same at the expense of the person in whose custody such unwholesome provisions are found. Furthermore, based upon inspection findings or other evidence, the Department may impound any food that is found to be, or suspected of being, contaminated or adulterated and impound equipment or utensils that are found to be unsanitary or in such disrepair that food, equipment, or utensils may become contaminated or adulterated. No food, equipment, or utensils impounded shall be used unless the impoundment has been released.

10-0804. BAKERIES, BARS, RESTAURANTS, GROCERIES, MEAT MARKET, MOBILE UNITS, TEMPORARY UNITS, OR ANY OTHER FOOD SERVICE ESTABLISHMENTS. INSPECTION OF PREMISES. LICENSE FEE. SUSPENSION OF LICENSE. The Department shall have free access to all bakeries, bars, restaurants, groceries, meat markets, mobile units, temporary units, or any other food service establishments at any reasonable

time for purposes of inspection. For the purposes of enforcement of this chapter, the Department may enter, inspect, photograph, and secure any sample, photographs, or other evidence from, every bakery, bar, restaurant, grocery, meat market, mobile unit, temporary unit, or any other food service establishment, for the purpose of enforcing this chapter. It is a violation of this chapter for any person to refuse to permit entry or inspection, the taking of samples or other evidence, the taking of photographs, or access to copy any record as authorized by this chapter, or to conceal any samples or evidence, or withhold evidence concerning them. A written report of the inspection shall be made and a copy shall be supplied or mailed to the owner, manager, or operator of the food service establishment. All shops, stores or units as specified in Section 10-0801 of this Chapter shall pay an annual license fee in an amount to be established by resolution of the Board of City Commissioners, said fee payable prior to January 1st of each year. A license shall be issued when investigation has determined that the proposed food service establishment and its method of operation will conform to the requirements of this chapter. A license, once issued, is nontransferable. A license shall be valid only for the person, location, type of food sales, or distribution activity approved and, unless suspended or revoked for cause, for the time period indicated. The license shall be posted in a conspicuous place in the food service establishment. Fees shall be sufficient to cover the actual expenses of administering and enforcing this program, including the expenses of inspecting.

Whenever the proprietor of a market, bakery, bar, restaurant, grocery, meat market, mobile unit, temporary unit, or any other food service establishment has been convicted of a violation of this chapter and for a period of ten days after the conviction fails to comply with any provision of this chapter, the City may suspend or revoke the proprietor's license. Any license may be suspended or revoked by the City for violation of this chapter. Bakeries, bars, restaurants, groceries, meat markets, mobile units, temporary units, or any other food service establishments for which the license has been suspended, shall close and remain closed until the license has been reinstated. Any food service establishment for which the license has been revoked shall close and remain closed until a new license has been issued. The City, and in case of immediate danger to the public health, the Department, may suspend any license to operate or direct any food service establishment to close if:

- A. Immediate danger to the public health or safety is found, unless the danger is immediately corrected. The Department may temporarily suspend the license and order the food service establishment immediately closed. Such suspension shall be reviewed at the next Commission meeting of the City, at which time the City can remove the suspension, or continue the suspension. Immediate danger to the public health and safety means any condition, based upon inspection findings or other evidence, that can cause food infection, food

intoxication, disease transmission, rodent or insect infestation, or hazardous condition, including, but not limited to, nonapproved food source, unsafe food temperatures, unsafe food handling, sewage contamination, nonpotable water supply, no water supply, or an employee who is a carrier of a communicable disease;

- B. Operations, facilities, or equipment in the food service establishment fail to comply with the requirements of this chapter;
- C. The operator fails to submit plans as required in this chapter or an inspection indicates that construction or renovation at the facility is not in substantial compliance with the requirements of this chapter;
- D. The operator fails to submit a license application for a food service establishment or change of operator;
- E. The operator was not granted a license under the requirements of this chapter;
- F. The holder of the license does not remit the annual renewal fee;
- G. The holder of the license does not comply with the requirements of the chapter; or
- H. Interference with the Department in the performance of duties has occurred.

When the City, or Department has suspended a food service establishment license, the person in charge:

- A. Shall immediately cease all food service operations;
- B. Shall be notified in writing by the Department that the food service establishment license is immediately suspended upon service of the notice and the suspension shall remain in effect until a hearing with the Department occurs. If the Department finds the operation to be in compliance with the requirements of this chapter the suspension will be lifted;
- C. May request a hearing by filing a written request for a hearing with the City Auditor within ten days of receipt of the notice of suspension; and
- D. Shall be notified, if a written request for a hearing is not filed within ten days, that the suspension is sustained.

Any food service establishment owner whose license has been suspended may at any time make written application for a reinspection for the purpose of reinstatement of the license. The

application shall include a statement, signed by the owner, that in the owner's opinion, the conditions causing the suspension of the license have been corrected.

The City may, after providing opportunity for a hearing, modify, suspend, or revoke a license for serious or repeated violations of any of the requirements of this chapter or for interference in the performance of the duty of the Department or its designated agent.

A license may be reinstated or a new license issued if the Department determines that conditions which prompted the suspension or revocation no longer exist.

10-0805. UNWHOLESOME FOOD, WATER, OR OTHER PROVISIONS NOT TO BE BROUGHT INTO CITY. No meat, fish, oysters, birds or fowls, vegetables, fruit, water, ice, beverages, or other provisions of any kind not being then healthy, fresh, sound, wholesome, and safe for human food, nor any part of any animal, fish or fowl that died by accident or from disease, shall be brought into the City, or sold, offered, or held for sale at any public or private market, bakery, bar, restaurant, grocery, meat market, mobile unit, temporary unit, or any other food service establishment, stall, shop, store, warehouse, and storehouse, or in any other place in the City by any person.

10-0806. SALE OF MEAT--REGULATIONS. No meat or meat products for human consumption shall be sold or offered for sale within the City except such as shall have been slaughtered and processed in a federally inspected packing plant or slaughterhouse or by the agency that has animal health jurisdiction; all such meat and meat products must be plainly stamped with a state, or federal inspection stamp.

10-0807. NORTH DAKOTA REQUIREMENTS FOR FOOD AND BEVERAGE ESTABLISHMENTS ADOPTED. There is hereby adopted by reference by the Board of City Commissioners, for the purpose of prescribing regulations governing standards, relative to bakeries, bars, meat markets, groceries, restaurants, mobile units, temporary units, or any other food service establishments in the City of West Fargo, that certain code known as the North Dakota Requirements for Food and Beverage Establishments recommended and compiled by the North Dakota Department of Health, Chapter 33-33-04 of the North Dakota Administrative Code, as well as all other applicable chapters or sections of the North Dakota Century Code and this chapter, and the same is hereby adopted and incorporated as fully as if set out in length herein, and from the date on which this ordinance shall take effect, the provisions thereof shall be controlling within the limits of the City.

CHAPTER 10-09
(Source: Ord. 696, Sec. 1 [2003])

DEAD ANIMALS, BONES, CARCASSES, FURS, AND HIDES

Section:

- 10-0901. Dead animals, bones, carcasses not to be brought in or stored in City--Exception.
- 10-0902. Requirements of warehouse or storage room where carcasses kept.
- 10-0903. Trucks containing carcasses--Standing on streets over four hours prohibited.
- 10-0904. Trucks containing carcasses--Unloading restrictions.
- 10-0905. Skinning or storing in authorized warehouse required.
- 10-0906. Commercial enterprises to abide by regulations.
- 10-0907. Time during which dead animals and carcasses may be kept.
- 10-0908. Storage and skinning not permitted when prohibited by zoning ordinances.
- 10-0909. Flushing and cleaning floor required.
- 10-0910. Hides and furs not to be cured or stored outside of buildings.
- 10-0911. "Bones" defined--Storage.
- 10-0912. Hide and fur houses or business of storing or skinning animals as public nuisance.
- 10-0913. Repeal of conflicting ordinances.
- 10-0914. Penalty for violation of Chapter.

10-0901. DEAD ANIMALS, BONES, CARCASSES NOT TO BE BROUGHT IN OR STORED IN CITY--EXCEPTION. No person, firm, or corporation shall bring into or store within the City any dead animals, bones, or carcasses of dead animals other than such as are suitable and intended for human consumption except in accordance with the provisions listed in this article.

10-0902. REQUIREMENTS OF WAREHOUSE OR STORAGE ROOM WHERE CARCASSES KEPT. No person, firm, or corporation shall be permitted to bring in, keep, or store carcasses of dead animals in the City unless such person, firm, or corporation shall have first provided a warehouse or storage room therefor, which said storage room or warehouse shall be constructed with a concrete floor and finished in such a manner as to make it impervious to moisture, said floor is to be so constructed as to slope from all parts thereof toward a drain or opening in such floor, and such opening or drain must be connected with a sanitary sewer system of the City in a manner and according to the regulations and ordinances of this City governing connections with sanitary sewers. No carcasses shall be at any time stored or kept in or upon any premises in the City other than in such warehouse or storage room so constructed, except that frozen carcasses may be temporarily stored in any fully enclosed

room in a warehouse containing a storage room constructed in the manner herein provided, or in any connecting warehouse not equipped with a concrete floor and drain, and any frozen carcasses so stored shall be removed therefrom while they are in a frozen condition. A warehouse or storage room shall, in addition to said construction, be fully enclosed on all sides and covered by a roof and shall be accessible for the delivery of such carcasses or bones through an entrance not opening through or across any street or sidewalk in the City, and provided further, that such storage room or warehouse shall be equipped with ventilators constructed so as to open through the roof or top of said building and no opening or access to said building shall at any time be left or kept so as to permit odors from such storage rooms or warehouse to escape through or across any street or sidewalk in the City, and such storage room or warehouse shall at all times be kept in a clean and sanitary condition.

10-0903. TRUCKS CONTAINING CARCASSES--STANDING ON STREETS OVER FOUR HOURS PROHIBITED. No person, firm, or corporation shall permit any trucks, wagons, or other conveyances containing the bodies or carcasses of dead animals other than those animals suitable or intended for human consumption to remain standing on any street, alley or other public way in the City for a period of more than four hours.

10-0904. TRUCKS CONTAINING CARCASSES--UNLOADING RESTRICTIONS. All trucks, wagons or other conveyances containing the bodies or carcasses of dead animals, not suitable or intended for human consumption, shall be unloaded within four hours after the arrival of such truck, wagon, or other conveyance in the City in the warehouse as defined in Section 10-0902, and no such animals or carcasses shall be unloaded across or over any street or sidewalk.

10-0905. SKINNING OR STORING IN AUTHORIZED WAREHOUSE REQUIRED. No person, firm, or corporation shall store or skin any dead animal within the City unless such storage or skinning is done within the warehouse as defined in Section 10-0902, and the carcasses of animals skinned shall not be piled on the ground or on any wooden, tile, or other form of floor except a concrete floor as hereinbefore defined and described in this article.

10-0906. COMMERCIAL ENTERPRISES TO ABIDE BY REGULATIONS. No person, firm, or corporation, while operating a commercial enterprise in the City, shall skin or permit the skinning of dead animals in the City unless such skinning is done in a warehouse and on a floor constructed as defined in Section 10-0902.

10-0907. TIME DURING WHICH DEAD ANIMALS AND CARCASSES MAY BE KEPT. Bodies of dead animals intended for skinning may be kept as hereinbefore provided and before skinning so long as such bodies are solidly frozen and not longer. Frozen bodies may be removed from the place where stored to the place where the skinning is carried on and kept in such skinning room a sufficient length of time to thaw such bodies sufficiently for skinning, and after such

animals have been skinned the carcasses thereof shall be removed outside of the corporate limits of the City within 48 hours.

10-0908. STORAGE AND SKINNING NOT PERMITTED WHEN PROHIBITED BY ZONING ORDINANCES. No storage or skinning of dead animals shall be permitted in any portion of the City where such storage and skinning is prohibited by the zoning ordinances of the City, and the storage of either dead animals before skinning or carcasses of skinned animals outside of the buildings hereinbefore described is prohibited.

10-0909. FLUSHING AND CLEANING FLOOR REQUIRED. The floor of a warehouse used for skinning or piling of skinned carcasses of dead animals shall be cleaned at least each day by flushing the same thoroughly with water and such floor shall be thoroughly cleaned.

10-0910. HIDES AND FURS NOT TO BE CURED OR STORED OUTSIDE OF BUILDINGS. No person, firm, or corporation shall place outside of any buildings any hide, fur, skin, or other portion of the body of any animal for the purpose of storing, drying, or curing the same, and all drying, curing of hides, skins and furs, and any other portion of the body of any animal shall be done inside of a building or warehouse and no such hides, skins, or furs, or other portions of the bodies of dead animals shall be stored outside of a building or warehouse.

10-0911. "BONES" DEFINED--STORAGE. The word "bones" as used in this article is defined to mean such bones of animals as are clean and free from all flesh, skin, or hair, and the keeping of bones to which are attached any flesh, skin, or hair is hereby prohibited unless such bones are stored and kept in a warehouse constructed in the same manner and with the same floor construction as defined in Section 10-0902.

10-0912. HIDE AND FUR HOUSES OR BUSINESS OF STORING OR SKINNING ANIMALS AS PUBLIC NUISANCE. The operation of hide and fur houses or places of business where animals or the bodies or carcasses of animals are brought into the City for the purpose of storing or skinning such animals is hereby declared to be a public nuisance unless the same be conducted in accordance with the provisions of this chapter.

10-0913. PENALTY FOR VIOLATION OF CHAPTER.--Every person, firm, company, or corporation violating any of the provisions of this Chapter shall, upon conviction thereof, be punished by a fine not to exceed \$700, or by imprisonment not to exceed 90 days, or by both such fine and imprisonment, in the discretion of the court; the court to have the power to suspend said sentence and to revoke the suspension thereof. Each day any person, firm, company, or corporation shall violate any of the provisions of this Chapter shall constitute a separate offense.

CHAPTER 10-10
(Source: Ord. 696, Sec. 1 [2003])

SOFT SERVE FREEZING/DISPENSING MACHINES

Section:

- 10-1001. Definitions.
- 10-1002. Sanitizing machines and examination of product.
- 10-1003. Labeling.
- 10-1004. License.
- 10-1005. License revocation or suspension.
- 10-1006. Sale of nonconforming products prohibited.
- 10-1007. Exemptions.
- 10-1008. License fees.
- 10-1009. RESERVED FOR FUTURE USE.

10-1001. DEFINITIONS.

"Commissary" means any place, premise or establishment in which soft serve freezing/dispensing machines manufacture, store, and sell soft serve dairy and nondairy frozen dessert product.

"Department" means Fargo Cass Public Health or its designated agent.

"Dispensing only machine" means a machine that does not mix or freeze a mixture but which only dispenses a prepackaged ready-to-use soft serve dessert product.

"Laboratory" means a biological, physical or chemical laboratory which is under the supervision of the state or local health authority.

"License" means a written authorization to operate issued by the City.

"Manufacturer" means any establishment operating a soft serve freezing/dispensing machine.

"Soft-serve" means the frozen combination of two or more ingredients used in the manufacture of soft serve dairy or nondairy dessert product, with or without fruit, fruit juices, candy, nuts, meats, flavoring or coloring.

"Soft serve freezing/dispensing machine" means any mechanically operated freezing/dispensing machine used to produce a partially frozen dairy or nondairy dessert product combination of

two or more of the following: milk or milk products, edible oil or fat, eggs or egg products, sugar, water, fruit or fruit juices, flavoring, candy, coloring, or stabilizer, and includes but is not limited to soft-serve desserts, ices, novelties, or other similar products.

"Soft-serve mix" means the unfrozen combination of two or more ingredients used in the manufacture of soft serve dairy and nondairy dessert products.

10-1002. SANITIZING MACHINES AND EXAMINATION OF PRODUCT. Soft serve freezing/dispensing machines must be cleaned and sanitized as often as required. Soft serve dairy and nondairy dessert product shall be sampled yearly by the Department from each soft serve freezing/dispensing machine operated by the license holder. Each sample will be submitted to an approved laboratory for bacteriological analysis of its contents.

Fig. 1.
**BACTERIA AND TEMPERATURE STANDARDS FOR
SOFT SERVE DAIRY/NONDAIRY DESSERTS**

Frozen Desserts	Temperature	Standard Plate Count	Total Coliform
Frozen desserts	41°F	50,000/ml	10/ml
Novelties	41°F	50,000/ml	10/ml
Soft-serve	41°F	50,000/ml	10/ml

If any of the samples collected from a soft serve freezing/dispensing machine are not within the standards in Fig. 1 of this section, additional samples will be collected along with an inspection of the equipment to determine the reason, if any, for the violation of the standards. Three consecutive samples which laboratory analysis determines to be not within the limits of the standards will result in suspension of the license to operate the soft serve freezing/dispensing machine.

10-1003. LABELING. All soft serve dairy/nondairy dessert products that are not sold at the point of manufactured origin must be properly labeled according to current Food and Drug Administration guidelines.

10-1004. License. It shall be unlawful for any person who does not possess a valid license from the City to sell, store, or offer for sale any soft serve machine dairy/nondairy dessert product.

10-1005. LICENSE REVOCATION OR SUSPENSION. A license, as required by this chapter, may be suspended by the City upon the violation by the holder of any part of this chapter. Any person whose license has been suspended shall immediately discontinue operation of the soft serve machine until the defects that caused the suspension have been corrected. Following correction, the applicant may request reinstatement of the license by the

Department. The Department may require the license holder to demonstrate proper cleaning procedures and maintenance of the soft serve freezing/dispensing machine before reinstating the license.

10-1006. SALE OF NONCONFORMING PRODUCTS PROHIBITED. No mix or soft serve dairy/nondairy dessert product shall be sold unless such mix or soft serve dairy/nondairy dessert product has been manufactured and frozen in conformity with the requirements of this article. Milk and any milk product that is used in the manufacture of ice cream, frozen dairy dessert, frozen dessert, or sherbet shall be pasteurized. Ice cream mix, frozen dairy dessert mix, and frozen dessert mix are unfrozen products that are used in the manufacture of ice cream, frozen dairy dessert, or frozen dessert. They shall comply with all the requirements for ice cream, frozen dairy dessert, or frozen dessert, respectively.

10-1007. EXEMPTIONS. The soft serve freezing/dispensing machine program is concerned with the manufacture and freezing of soft serve frozen desserts, including both dairy and non-dairy products. The Department has determined that establishments freezing/dispensing non-dairy ice beverage products exclusively, such as water ices, slush, frozen cappuccino, etc. or serving hard hand-dipped ice cream, or dispensing only machines which dispense a prepackaged ready-to-use frozen dessert do not require a soft serve freezing/dispensing machine license.

10-1008. LICENSE FEES. Any person, firm or corporation that operates a soft serve freezing/dispensing machine in the City shall pay a yearly license fee in an amount which shall be established by resolution of the Board of City Commissioners. All such fees shall be paid to the City Auditor by the person, firm, or corporation licensed to operate a soft serve freezing/dispensing machine within the City as defined in this ordinance, said fees to be paid before the license is issued.

10-1009. RESERVED FOR FUTURE USE.
(Repealed by Ord. 961, Sec. 13 (2013))

CHAPTER 10-11

(Source: Ord. 853, Sec. 1 [2009])

SECTIONS:

10-1101. Landing and Takeoff of Aircraft at Unauthorized Airports, Helipads, or Other Unauthorized Locations Prohibited.

10-1101. LANDING AND TAKEOFF OF AIRCRAFT AT UNAUTHORIZED AIRPORTS, HELIPADS, OR OTHER UNAUTHORIZED LOCATIONS PROHIBITED.

1. Except as otherwise permitted herein, it is unlawful for any person, operator, corporation, association or firm to cause or permit the landing or takeoff of any aircraft within the city limits of West Fargo except at an authorized helipad, airport, or other locations approved by the City Commission.
2. The prohibition under this section shall not apply to the landing or takeoff of aircraft at heliports or airports authorized by the Federal Aviation Administration or the City Commission, nor shall this section apply to the use, training, or demonstration involving aircraft for law enforcement, emergency, military or medical purposes. Further, the prohibition under this section shall not apply to such other landings or takeoffs at locations approved by the City Commission.
3. In considering any application or request for authorization or request for authorization of locations for the landing or takeoff of aircraft in the city limits, the City Commission shall consider anticipated weather conditions, the existence of obstructions, size of proposed location, the proximity of the landing and/or take off location to schools, residential areas, commercial areas or structures, proximity to roadways, proposed landing surfaces, hours of operation, noise, and any other condition existing at the location which may be hazardous to property or unreasonably endanger persons or otherwise be detrimental to the health, safety, comfort, convenience and welfare of the public.
4. Any of the landing or takeoff locations approved by the City Commission shall be utilized in conformance with the terms of any such conditions or requirements that are imposed by the City Commission in its discretion.
5. For purposes of this section, aircraft means any device that is used or intended to be used for flight in the air, including but not limited to, airplanes, gliders, ultra-light aircraft, blimps, jets, hot air balloons,

helicopter, parachutes, and unmanned aerial vehicles/unmanned aircraft systems weighing more than 55 pounds. The term "aircraft" however shall not include unmanned aerial vehicles, unmanned aircraft systems, or model aircraft which are not designed, intended nor capable of carrying persons and which weigh 55 pounds or less.

CHAPTER 10-12

DOOR-TO-DOOR SALES AND SOLICITATION

Source: Ord. 945, Sec. 1 (2013)

SECTIONS:

- 10-12-01. Declaration of Purpose and Intent.
- 10-12-02. Door-to-Door Sales Regulated.
- 10-12-03. Door-to-Door Sales; Permit Required; Application.
- 10-12-04. Issuance of Permit and Terms Thereof.
- 10-12-05. Revocation of Permits.
- 10-12-06. Sales or Solicitations Without a Permit.
- 10-12-07. Hours of Sales Solicitation.
- 10-12-08. Locations Where Solicitations Prohibited.
- 10-12-09. License to be Carried by Licensee and Exhibited on Demand.
- 10-12-10. Penalty.

10-12-01. DECLARATION OF PURPOSE AND INTENT. The Board of City Commissioners finds and declares that for the safety, privacy and protection of residents of the community and for the preservation of the rights of people conducting protected speech, it is necessary and proper that certain door-to-door solicitations in residential areas be regulated and that permissible sales or solicitations be restricted to daylight or early evening hours.

10-12-02. DOOR-TO-DOOR SALES REGULATED. The practice of going door-to-door at private residences without being requested or invited to do so for the purpose of selling or soliciting orders to sell goods, wares, merchandise, magazines, periodicals or personal services is allowed only as permitted by this chapter.

10-12-03. DOOR-TO-DOOR SALES; PERMIT REQUIRED; APPLICATION. Any person or organization desiring to engage in door-to-door sales in residential areas for the purpose of selling or soliciting orders to sell goods, wares, merchandise, magazines, periodicals or personal services, may do so provided they comply with the provisions of this chapter and obtain a permit to do so by filing an application with the Office of City Auditor. The application must be on a form provided by the City and contain the following:

- 6. Applicant's name, present residence, present home address, present business address, and current telephone number.
- 7. A general description of the applicant's business, including the goods, wares, merchandise, magazines, periodicals or personal services that will be sold in the City.

8. Applicant's residence and business address for the prior two-year period, if different from the present residence and address.
9. The name and address of the organization the applicant represents or by whom they are employed.
10. If the applicant is a business and the application is for multiple sales persons, a complete listing of the name, local address and telephone number of each sales person that will conduct sales in the City must be provided.
11. The application must include a copy of the applicant's North Dakota sales tax permit and if applicable, a copy of the applicant's transient merchant license.
12. Such other information as is required by the city.

An application for a door-to-door sales permit may not be granted if the applicant or sales persons included in the application have:

1. Pled guilty to or been found guilty of a felony offense as defined by the laws of this state, other states, or the federal government under circumstances which indicate the person poses a threat to the public interest, or has pled guilty to or been found guilty of a felony violation of NDCC Chapter 12.1-06.1, 12.1-11, 12.1-20, 12.1-22, 12.1-23 or an offense of other states or the federal government equivalent to the offenses defined in these chapters. This restriction applies for five years from the date of conviction, release from incarceration, end of a period of suspension or deferral, or expiration of parole or probation, whichever is the latest.
2. Pled guilty to or been found guilty of a misdemeanor offense in violation of NDCC Chapter 12.1-06.1, 12.1-11, 12.1-20, 12.1-22, or 12.23, or an offense of other states, the federal government, or a municipality equivalent to these offenses. This restriction applies for two years from the date of conviction, release from incarceration, end of a period of suspension or deferral, or expiration of parole or probation, whichever is the latest.
3. Been found in violation of a prior door-to-door sales permit issued by the City of West Fargo. The City Auditor shall issue or deny door to door sales permit within a reasonable time of receipt of the application. Written notice of a denial must be mailed to the applicant at the address listed as current on the application. The notice shall contain a statement of the facts upon which the denial is based.

Denial of a door to door sales permit is subject to an appeal to the Board of City Commissioners upon written notice of appeal filed within 10 days of receipt of the notice of denial. If no appeal is filed within the time specified the action shall be final.

Upon receipt of a notice of appeal, the Board shall set a date for a hearing within 15 days of receipt of the notice of the appeal. Notice of the time and place for the hearing must be served upon the applicant personally or by certified mail at least five days before the hearing. The Board shall hear such testimony and other evidence as it deems necessary and expedient, and thereupon make its findings and decision, which shall be final.

10-12-04. ISSUANCE OF PERMIT AND TERMS THEREOF.

1. Upon approval of the application, the City Auditor shall issue a permit to the applicant.
2. The permit is to be in the form of an identification badge and must be worn and visible at all times by the applicant when selling. Duplicate permits may be issued to each employee or agent of the applicant that will engage in sales.
3. The permit must have a number on it which shall also be placed on the applicant's application file. The permit or permits must also contain the name of the applicant and the name of the sales person. Each sales person shall wear a permit in a visible manner during all sales activities.
4. The permit shall be issued for a period of one year. The permit fee shall be \$200 plus an additional \$25 for each additional sales person to be included on the permit.

10-12-05. REVOCATION OF PERMITS.

1. Permits issued under the provisions of this chapter may be revoked by the Board of City Commissioners after notice and hearing, for any of the following causes:
 - a. Fraud, misrepresentation or false statement contained in the application for a permit.
 - b. Fraud, misrepresentation or false statement made in the course of carrying on business.
 - c. Any violation of this chapter.
 - d. Conviction of any crime involving theft or dishonesty.

- e. Conducting the business in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.
- 2. Notice of the hearing for revocation must be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice must be mailed, registered mail, to the address of the licensee as contained in the application, at least five days prior to the date of the hearing.

10-12-06. SALES OR SOLICITATIONS WITHOUT A PERMIT. Any person or organization desiring to engage in door-to-door solicitation in residential areas for the purpose of soliciting charitable or religious contributions, the sale of religious articles or publications or the sale of other articles if the proceeds are used for charitable or religious purposes, persons soliciting for or in support of any non-profit organization or public interest, political candidates, or persons campaigning for or against a political candidate or issue may do so without a permit providing they comply with the provisions of this chapter.

10-12-07. HOURS AND SALES OF SOLICITATION. Door-to-door sales or solicitation allowed pursuant to this chapter are permitted only between the hours of 9:00 a.m. and 5:30 p.m. and between the hours of 7:00 p.m. and 9:00 p.m. daily.

10-12-08. LOCATIONS WHERE SOLICITATION PROHIBITED. Notwithstanding the sales or solicitations allowed under this chapter, no person may solicit or sell at any private residence, business or establishment if there is placed on the premises in an observable location, a sign at least 10 square inches in size bearing the words "No Trespassing", "No Soliciting", or similar notice.

10-12-09. LICENSE TO BE CARRIED BY LICENSEE AND EXHIBITED ON DEMAND. Every transient merchant licensed under this chapter shall have the license in immediate possession at all times when engaging in or transacting any business regulated by this chapter. The licensee shall display the license when requested to do so by any court, law enforcement official, peace officer, or consumer. However, a person charged with violating this requirement may not be convicted, fined, or assessed the administration fee if the license is produced in court or to the arresting officer and if the license was valid at the time of the arrest.

10-12-10. PENALTY. Any person violating any provision of this chapter shall be guilty of a class B misdemeanor and subject to the imposition of penalties under Section 1-0211 of the Revised Ordinances of 1990 of the City of West Fargo.